

Title 3 WAC

ACADEMIC ACHIEVEMENT AND ACCOUNTABILITY COMMISSION

DISPOSITION OF CHAPTERS FORMERLY CODIFIED IN THIS TITLE

Chapter 3-20 PERFORMANCE IMPROVEMENT GOALS

3-20-200	Reading and mathematics. [Statutory Authority: RCW 28A.655.030 (1)(a). 03-09-144, § 3-20-200, filed 4/23/03, effective 5/24/03.] Decodified by 05-15-036, filed 7/11/05, effective 7/11/05. Recodified as WAC 180-105-020.
3-20-300	High school graduation. [Statutory Authority: RCW 28A.655.030 (1)(a). 03-09-144, § 3-20-300, filed 4/23/03, effective 5/24/03.] Repealed by 05-11-046, filed 5/12/05, effective 6/13/05. Statutory Authority: RCW 28A.655.030 (1)(a).
3-20-390	Definitions. [Statutory Authority: RCW 28A.655.030 (1)(a). 05-11-046, § 3-20-390, filed 5/12/05, effective 6/13/05.] Decodified by 05-15-036, filed 7/11/05, effective 7/11/05. Recodified as WAC 180-105-040.
3-20-400	High school graduation. [Statutory Authority: RCW 28A.655.030 (1)(a). 05-11-046, § 3-20-400, filed 5/12/05, effective 6/13/05.] Decodified by 05-15-036, filed 7/11/05, effective 7/11/05. Recodified as WAC 180-105-060.

Title 4 WAC

ACCOUNTANCY, BOARD OF

Chapters

4-25

General provisions.

Chapter 4-25 WAC

GENERAL PROVISIONS

WAC

4-25-530

Fees.

WAC 4-25-530 Fees. The board shall charge the following fees:

- | | |
|---|-------|
| (1) Initial application for individual license, practice privilege, individual license through reciprocity, CPA firm license (sole proprietorships with no employees are exempt from the fee), or registration as a resident nonlicensee firm owner | \$330 |
| (2) Renewal of individual license, CPA-Inactive certificate, practice privilege, CPA firm license (sole proprietorships with no employees are exempt from the fee), or registration as a resident nonlicensee firm owner | \$230 |

- | | | | | | | | |
|--|--|---------------|-----------------|--------------|--|-----------------|---------------|
| (3) Application for CPA-Inactive certificateholder to convert to a license | \$0 | | | | | | |
| (4) Application for reinstatement of license, practice privilege, CPA-Inactive certificate, or registration as a resident nonlicensee owner .. | \$480 | | | | | | |
| (5) Quality assurance review (QAR) program fee (includes monitoring reviews for up to two years)
Firm submits reports for review
Firm submits a peer review report for review | \$400
\$60 | | | | | | |
| Firm is exempted from the QAR program because the firm did not issue attest reports | \$0 | | | | | | |
| (6) Late fee | \$100 | | | | | | |
| (7) Amendment to firm license except for a change of firm address (there is no fee for filing a change of address) | \$35 | | | | | | |
| (8) Copies of records, per page exceeding fifty pages | \$0.15 | | | | | | |
| (9) Computer diskette listing of licensees, CPA-Inactive certificateholders, grants of practice privilege, registered resident nonlicensee firm owners, or firms | \$75 | | | | | | |
| (10) Replacement CPA wall document | \$50 | | | | | | |
| (11) Process transfer of grades | \$35 | | | | | | |
| (12) Dishonored check fee (including, but not limited to, insufficient funds or closed accounts) | \$35 | | | | | | |
| (13) CPA examination. Exam fees are comprised of section fees plus administrative fees. The total fee is contingent upon which section(s) is/are being applied for and the number of sections being applied for at the same time. The total fee is the section fee(s) for each section(s) applied for added to the administrative fee for the number of section(s) applied for. | | | | | | | |
| (a) Section fees: | | | | | | | |
| (i) Auditing and attestation | \$159.25 | | | | | | |
| (ii) Financial accounting and reporting | \$148.00 | | | | | | |
| (iii) Regulation | \$125.50 | | | | | | |
| (iv) Business environment and concepts | \$114.25 | | | | | | |
| (b) Administrative fees: | | | | | | | |
| | <table border="0"> <tr> <td></td> <td style="text-align: center;">1/1/04 -</td> <td style="text-align: center;">After</td> </tr> <tr> <td></td> <td style="text-align: center;">12/31/06</td> <td style="text-align: center;">1/1/07</td> </tr> </table> | | 1/1/04 - | After | | 12/31/06 | 1/1/07 |
| | 1/1/04 - | After | | | | | |
| | 12/31/06 | 1/1/07 | | | | | |
| (i) First-time candidate - Four sections | \$124.50 \$132.95 | | | | | | |
| (ii) First-time candidate - Three sections | \$111.00 \$119.10 | | | | | | |
| (iii) First-time candidate - Two sections | \$97.00 \$104.70 | | | | | | |
| (iv) First-time candidate - One section | \$83.00 \$90.30 | | | | | | |
| (v) Reexam candidate - Four sections | \$122.50 \$130.75 | | | | | | |
| (vi) Reexam candidate - Three sections | \$104.00 \$111.40 | | | | | | |

Title 10

Title 10 WAC: Administrative Hearings, Office of

(vii) Reexam candidate - Two sections	\$85.00	\$91.50
(viii) Reexam candidate - One section	\$66.00	\$71.60
National Association of State Boards of Accountancy candidate data base investigation fee for exam applications submitted with- out the applicant's Social Security number	\$70	\$70

Note: The board may waive late filing fees for individual hardship including, but not limited to, financial hardship, critical illness, or active military deployment.

[Statutory Authority: RCW 18.04.065, 18.04.105(3), 05-10-046, § 4-25-530, filed 4/29/05, effective 6/2/05. Statutory Authority: RCW 18.04.065, 18.04.105(3), 18.04.205, 05-01-136, § 4-25-530, filed 12/16/04, effective 1/31/05. Statutory Authority: RCW 18.04.065, [18.04.]105(3), [18.04.]195(7), [18.04.]205(4), [18.04.]215(8), [18.04.]350 (2)(a), and 42.17.260(8), 04-01-076, § 4-25-530, filed 12/15/03, effective 1/15/04. Statutory Authority: RCW 18.04.055, [18.04.]065, [18.04.]105 (1)(e) and (3), 02-22-083, § 4-25-530, filed 11/5/02, effective 12/31/02. Statutory Authority: RCW 18.04.055, 18.04.065, 18.04.105(3), 18.04.195(7), 18.04.205(4), 18.04.215(8), and 18.04.350(2), 01-22-036, § 4-25-530, filed 10/30/01, effective 12/1/01. Statutory Authority: RCW 18.04.055, 18.04.065, 18.04.105(7), 18.04.195(6) and 18.04.205(4), 99-18-112, § 4-25-530, filed 9/1/99, effective 1/1/00. Statutory Authority: RCW 18.04.055, 18.04.065 and 18.04.195(b), 99-02-009, § 4-25-530, filed 12/24/98, effective 5/7/99. Statutory Authority: RCW 18.04.055, 18.04.065 and 18.04.195(6), 96-12-060, § 4-25-530, filed 5/31/96, effective 7/1/96. Statutory Authority: RCW 18.04.055, 93-12-075, § 4-25-530, filed 5/27/93, effective 7/1/93.]

Title 10 WAC ADMINISTRATIVE HEARINGS, OFFICE OF

Chapters

10-20 Firearms and weapons in administrative hearings.

Chapter 10-20 WAC

FIREARMS AND WEAPONS IN ADMINISTRATIVE HEARINGS

WAC

10-20-010	Firearms, weapons prohibited in administrative hearings.
10-20-020	Notice of prohibited weapons.
10-20-030	Sanctions for possession of weapons.

WAC 10-20-010 Firearms, weapons prohibited in administrative hearings. (1) Firearms or other dangerous weapons are prohibited at all facilities owned, leased, or operated by the office of administrative hearings and in rooms where the office of administrative hearings is conducting an administrative hearing. This prohibition applies to all parties or witnesses at hearings, all office of administrative hearings employees, and all other persons present. However, it does not apply to law enforcement personnel, security personnel, or military personnel, all while engaged in official duties.

(2) As used in this chapter, "firearm or other dangerous weapon" means any firearm as defined in RCW 9.41.010, explosive as defined in RCW 70.74.010, or weapon listed in RCW 9.41.250.

(3) Possession of a valid concealed weapons permit is not a defense to the prohibition in this section.

(4) This prohibition does not apply to lawful firearms or other lawful weapons while confined to private motor vehicles in parking areas at hearings facilities.

(5) This prohibition does not apply to firearms or other dangerous weapons offered as evidence in an administrative hearing.

[Statutory Authority: RCW 34.12.030(6) and 34.12.080, 05-03-003, § 10-20-010, filed 1/5/05, effective 2/5/05.]

WAC 10-20-020 Notice of prohibited weapons.

Notice that firearms and other dangerous weapons are prohibited shall be posted conspicuously in the waiting area of all office of administrative hearings offices and shall be included with every notice of hearing issued by the office of administrative hearings.

[Statutory Authority: RCW 34.12.030(6) and 34.12.080, 05-03-003, § 10-20-020, filed 1/5/05, effective 2/5/05.]

WAC 10-20-030 Sanctions for possession of weapons.

Any person in possession of a firearm or other dangerous weapon at facilities owned, leased, or operated by the office of administrative hearings or in rooms being used by the office of administrative hearings for administrative hearings may be excluded from the hearings facility or room, may be held in default from the hearing, and may face any other applicable legal consequences.

[Statutory Authority: RCW 34.12.030(6) and 34.12.080, 05-03-003, § 10-20-030, filed 1/5/05, effective 2/5/05.]

Title 14 WAC

ADVANCED TUITION PAYMENT, COMMITTEE ON

Chapters

14-104	Committee on advanced tuition payment.
14-108	Practice and procedure.
14-122	Withholding services for outstanding debts.
14-133	Organization.
14-276	Access to public records.

Chapter 14-104 WAC

COMMITTEE ON ADVANCED TUITION PAYMENT

WAC

14-104-010	Time and place of committee meetings.
14-104-030	Delegation to director.

WAC 14-104-010 Time and place of committee meetings. The committee shall hold regular meetings at such time as it may fix. The annual meeting schedule shall be published in the *Washington State Register*. Special meetings may be requested by the chair of the committee or by a majority of the members of the committee and announced in accordance with law.

All regular and special meetings of the committee shall be held at the state investment board, Olympia, Washington, unless scheduled elsewhere, and are open to the general public, except for lawful executive sessions.

No official business may be conducted by the committee except during a regular or special meeting.

[Statutory Authority: RCW 28B.95.030 (9)(e). 05-24-103, § 14-104-010, filed 12/7/05, effective 1/7/06; 98-23-009, § 14-104-010, filed 11/5/98, effective 12/6/98.]

WAC 14-104-030 Delegation to director. The committee delegates to the director its authority and responsibility to administer the advanced college tuition payment program, also known as the guaranteed education tuition (GET) program in accordance with laws, policies, and rules approved by the committee to the fullest extent permitted by law. At the operational level, the director has final administrative authority over all matters affecting the program. Employees of the program shall be employees of the higher education coordinating board and the board shall carry out administrative responsibilities otherwise not assigned to the committee.

[Statutory Authority: RCW 28B.95.030 (9)(e). 05-24-103, § 14-104-030, filed 12/7/05, effective 1/7/06; 98-23-009, § 14-104-030, filed 11/5/98, effective 12/6/98.]

Chapter 14-108 WAC PRACTICE AND PROCEDURE

WAC

14-108-040 Application for adjudicative proceeding.

WAC 14-108-040 Application for adjudicative proceeding. An application for adjudicative proceeding shall be in writing. Application forms are available at the following address: 919 Lakeridge Way S.W., Olympia, Washington 98502.

Written application for an adjudicative proceeding should be submitted to the above address within twenty calendar days of the agency action giving rise to the application, unless provided for otherwise by statute or rule.

[Statutory Authority: RCW 28B.95.030 (9)(e). 05-24-103, § 14-108-040, filed 12/7/05, effective 1/7/06; 98-23-009, § 14-108-040, filed 11/5/98, effective 12/6/98.]

Chapter 14-122 WAC WITHHOLDING SERVICES FOR OUTSTANDING DEBTS

WAC

14-122-010 Policy.

WAC 14-122-010 Policy. If any purchaser of an account as defined in RCW 28B.95.020(8), or any other person, is indebted to the program for an outstanding overdue

debt, the committee need not provide any further services of any kind to such individual, including, but not limited to, transmitting files, records, vouchers, or other services which have been requested by such person.

[Statutory Authority: RCW 28B.95.030 (9)(e). 05-24-103, § 14-122-010, filed 12/7/05, effective 1/7/06; 98-23-009, § 14-122-010, filed 11/5/98, effective 12/6/98.]

Chapter 14-133 WAC ORGANIZATION

WAC

14-133-020 Organization—Operation—Information.

WAC 14-133-020 Organization—Operation—Information. (1) Organization. The advanced college tuition payment program is established in Title 28B.95 RCW. The program is governed by the committee on advanced tuition payment, also known as the guaranteed education tuition (GET) committee, composed of the executive director of the higher education coordinating board, the director of the office of financial management, the state treasurer, or their designees, and two citizen members. The committee employs a director, who administers the program.

(2) Operation. The administrative office is located at the following address:

919 Lakeridge Way S.W.
Olympia, Washington 98502

The office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays.

(3) Information. Information concerning the advanced college tuition payment program and contracts for the purchase of tuition units may be obtained at the following address:

919 Lakeridge Way S.W.
Olympia, Washington 98502

(4) The staff of the higher education coordinating board shall support the committee.

[Statutory Authority: RCW 28B.95.030 (9)(e). 05-24-103, § 14-133-020, filed 12/7/05, effective 1/7/06; 98-23-009, § 14-133-020, filed 11/5/98, effective 12/6/98.]

Chapter 14-276 WAC ACCESS TO PUBLIC RECORDS

WAC

14-276-010	Purpose.
14-276-020	Definitions.
14-276-030	Description of central and field organization of the committee on advanced college tuition payment.
14-276-050	Public records available.
14-276-060	Public records officer.
14-276-070	Office hours.
14-276-080	Requests for public records.
14-276-100	Determination regarding exempt records.
14-276-110	Review of denials of public records requests.
14-276-120	Protection of public records.

WAC 14-276-010 Purpose. The purpose of this chapter is to ensure that the advanced college tuition payment program complies with the provisions of chapter 42.56 RCW

and in particular with those sections of that chapter dealing with public records.

[Statutory Authority: RCW 28B.95.030 (9)(e). 05-24-103, § 14-276-010, filed 12/7/05, effective 1/7/06; 98-23-009, § 14-276-010, filed 11/5/98, effective 12/6/98.]

WAC 14-276-020 Definitions. (1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds or symbols, combination thereof and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, disks, drums and other documents.

(3) The "committee on advanced college tuition payment" is an agency organized by statute pursuant to chapter 28B.95 RCW. The committee on advanced college tuition payment, also known as the guaranteed education tuition (GET) committee, shall hereafter be referred to as the "committee." Where appropriate, the term "committee" also refers to the staff and employees of the committee.

[Statutory Authority: RCW 28B.95.030 (9)(e). 05-24-103, § 14-276-020, filed 12/7/05, effective 1/7/06; 98-23-009, § 14-276-020, filed 11/5/98, effective 12/6/98.]

WAC 14-276-030 Description of central and field organization of the committee on advanced college tuition payment. (1) The committee on advanced college tuition payment is a state agency established and organized under the authority of chapter 28B.95 RCW for the purpose of implementing the advanced college tuition payment program ("program") established by the legislature. The administrative office of the program is located at 919 Lakeridge Way S.W., Olympia, Washington 98502.

(2) The program is operated under the supervision and control of the committee. The committee consists of the executive director of the higher education coordinating board, the director of the office of financial management, the state treasurer, or their designees and two citizen members. The committee meets, as provided in WAC 14-104-010. The committee employs a director and an administrative staff. The committee takes such actions and promulgates such rules and policies as are necessary to the administration and operation of the program.

(3) The director is responsible to the committee for the operation and administration of the program.

(4) The staff of the higher education coordinating board shall support the committee and the board shall carry out administrative responsibilities otherwise not assigned to the committee.

[Statutory Authority: RCW 28B.95.030 (9)(e). 05-24-103, § 14-276-030, filed 12/7/05, effective 1/7/06; 98-23-009, § 14-276-030, filed 11/5/98, effective 12/6/98.]

WAC 14-276-050 Public records available. All public records of the program, as defined in this chapter, are deemed

to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.56.210 or other statutes.

[Statutory Authority: RCW 28B.95.030 (9)(e). 05-24-103, § 14-276-050, filed 12/7/05, effective 1/7/06; 98-23-009, § 14-276-050, filed 11/5/98, effective 12/6/98.]

WAC 14-276-060 Public records officer. The committee's public records shall be in the charge of the public records officer designated by the committee. The person so designated shall be located in the administrative office. The public records officer shall be responsible for the following: Implementation of the committee's rules regarding release of public records, coordinating employees in this regard, and generally ensuring compliance by committee employees with the public records disclosure requirements in chapter 42.56 RCW.

[Statutory Authority: RCW 28B.95.030 (9)(e). 05-24-103, § 14-276-060, filed 12/7/05, effective 1/7/06; 98-23-009, § 14-276-060, filed 11/5/98, effective 12/6/98.]

WAC 14-276-070 Office hours. Public records shall be available for inspection and copying during the customary office hours of the committee. For purposes of this chapter, the customary office hours shall be from 8:00 a.m. to noon, and from 1:00 p.m. to 5:00 p.m., Monday through Friday, excluding legal holidays.

[Statutory Authority: RCW 28B.95.030 (9)(e). 05-24-103, § 14-276-070, filed 12/7/05, effective 1/7/06; 98-23-009, § 14-276-070, filed 11/5/98, effective 12/6/98.]

WAC 14-276-080 Requests for public records. In accordance with the requirements of RCW 42.56.100 that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records are only obtainable by members of the public when those members of the public comply with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the committee which shall be available at the committee's administrative office. The form shall be presented to the public records officer or, if the public records officer is not available, to any member of the committee's staff at the committee administrative office during customary office hours. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature of the request;
- (d) If the matter requested is referenced within the current index maintained by the public records officer, a reference to the requested record as it is described in such current index;
- (e) If the requested matter is not identifiable by reference to the current index, an appropriate description of the record requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer, or person to whom the request is made, to assist the

member of the public in succinctly identifying the public record requested.

[Statutory Authority: RCW 28B.95.030 (9)(e). 05-24-103, § 14-276-080, filed 12/7/05, effective 1/7/06; 98-23-009, § 14-276-080, filed 11/5/98, effective 12/6/98.]

WAC 14-276-100 Determination regarding exempt records. (1) The committee reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 14-276-080 is exempt pursuant to the provisions set forth in RCW 42.56.210 or other statute. Such determination may be made in consultation with the public records officer, or an assistant attorney general assigned to the committee.

(2) Pursuant to RCW 42.56.070, the committee reserves the right to delete identifying details when it makes available or publishes any public record when there is reason to believe that disclosure of such details would be an unreasonable invasion of personal privacy or impair a vital governmental interest: Provided, however, That in each case, the justification for the deletion shall be explained fully in writing.

(3) Response to requests for a public record must be made promptly. For the purposes of this section, a prompt response occurs if the person requesting the public record is notified within two business days as to whether his request for a public record will be honored.

(4) All denials of request for public records must be accompanied by a written statement, signed by the public records officer or designee, specifying the reason for the denial, a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the public record withheld.

[Statutory Authority: RCW 28B.95.030 (9)(e). 05-24-103, § 14-276-100, filed 12/7/05, effective 1/7/06; 98-23-009, § 14-276-100, filed 11/5/98, effective 12/6/98.]

WAC 14-276-110 Review of denials of public records requests. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement which constituted or accompanied the denial.

(2) The written request by a person demanding prompt review of a decision denying a public record shall be submitted to the chair of the committee or designee.

(3) Within five business days after receiving the written request by a person petitioning for a prompt review of a decision denying a public record, the chair of the committee or designee, shall complete such review.

(4) During the course of the review the chair or designee shall consider the obligations of the committee to comply with the intent of chapter 42.56 RCW insofar as it requires providing full public access to official records, but shall also consider the exemptions provided in RCW 42.56.210 or other pertinent statutes, and the provisions of the statute which require the committee to protect public records from damage or disorganization, prevent excessive interference with essential functions of the agency, and prevent any unreasonable invasion of personal privacy by deleting identifying details.

[Statutory Authority: RCW 28B.95.030 (9)(e). 05-24-103, § 14-276-110, filed 12/7/05, effective 1/7/06; 98-23-009, § 14-276-110, filed 11/5/98, effective 12/6/98.]

WAC 14-276-120 Protection of public records.

Requests for public records shall be made at the administrative office of the committee at 919 Lakeridge Way S.W., Olympia, Washington 98502. Public records and a facility for their inspection will be provided by the public records officer. Such records shall not be removed from the place designated. Copies of such records may be arranged according to the provisions of WAC 14-276-090.

[Statutory Authority: RCW 28B.95.030 (9)(e). 05-24-103, § 14-276-120, filed 12/7/05, effective 1/7/06; 98-23-009, § 14-276-120, filed 11/5/98, effective 12/6/98.]

Title 16 WAC AGRICULTURE, DEPARTMENT OF

Chapters

16-54	Animal importation.
16-157	Organic food standards and certification.
16-218	Hops—Certification analyses—Fees.
16-229	Secondary and operational area containment for bulk pesticides.
16-237	Commodity storage warehouses and grain dealers.
16-240	WSDA grain inspection program—Definitions, standards, and fees.
16-250	Commercial feed rules.
16-252	Commercial feed rules—Pet food and specialty pet food.
16-301	General seed regulations.
16-302	General rules for seed certification.
16-303	Seed assessment, fees for seed services and seed certification.
16-319	Forest tree seed certification.
16-350	Registration and certification of fruit tree planting stock.
16-390	WSDA fruit and vegetable inspection districts, inspection fees and other charges.
16-401	Nursery inspection fees.
16-406	Washington standards for apricots.
16-409	Washington standards for asparagus.
16-414	Washington standards for cherries.
16-445	Washington standards for Italian prunes.
16-470	Quarantine—Agricultural pests.
16-501	WSDA procedural rules—Commodity boards or commissions.
16-529	Washington alfalfa seed commission.
16-532	Hops.
16-540	Mint.
16-585	Puget Sound salmon commission.
16-623	Commission Merchant Act—Licensing fees, proof of payment, cargo manifests and registration of acreage commitments.

- 16-662** **Weights and measures—National hand-books.**
16-730 **Asparagus equipment lease program.**
16-750 **State noxious weed list and schedule of monetary penalties.**
16-752 **Noxious weed control.**

**DISPOSITION OF CHAPTERS FORMERLY
 CODIFIED IN THIS TITLE**

Chapter 16-239
**WSDA GRAIN INSPECTION PROGRAM—DEFINITIONS,
 STANDARDS, FEES AND CHARGES**

- 16-239-010 Definitions. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-010, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.
- 16-239-020 Washington state grain and commodity inspection points. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-020, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.
- 16-239-030 Commodities covered by chapter 22.09 RCW. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-030, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.
- 16-239-040 Grades and standards adopted by Washington state. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-040, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.
- 16-239-050 Scale testing. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-050, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.
- 16-239-060 Guarantee of expenses. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-060, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.
- 16-239-061 Guaranteed staffing levels. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-061, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.
- 16-239-062 Additional fees to cover insufficient revenue at export locations. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-062, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter

34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.

16-239-063 Official commercial inspection services. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-063, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.

16-239-064 Calculating travel time, mileage and per diem. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-064, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.

16-239-065 Payment of fees and charges. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-065, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.

16-239-070 Basic WSDA grain program fees for service. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-070, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.

16-239-071 Straight time rate. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-071, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.

16-239-072 GIPSA/FGIS scale authorization fee. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-072, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.

16-239-073 Overtime and night shift rates. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-073, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.

16-239-074 Late notice fee. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-074, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.

16-239-075 Call-back fee. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-075, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal

	Grain Inspection, Packers and Stockyards Administration.		of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.
16-239-076	Shift request fee. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-076, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.	16-239-0805	Fees for inspecting submitted samples. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0805, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.
16-239-077	Shift cancellation fee. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-077, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.	16-239-0806	Fees for factor analysis. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0806, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.
16-239-078	Four-hour minimum standby fee. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-078, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.	16-239-0807	Fees for official constituent analysis using near-infrared transmittance (NIRT) technology. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0807, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.
16-239-079	Service cancellation fee. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-079, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.	16-239-0808	Fees for qualitative or quantitative testing for the presence of Mycotoxins using USDA approved "ELISA," "Fluorometric," or similar methods. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0808, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.
16-239-080	Fees for official sampling, inspecting, and/or weighing services under the United States Grain Standards Act. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-080, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.	16-239-0809	Fees for stowage examination services on vessels or ocean-going barges. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0809, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.
16-239-0801	Fees for combination inspection and weighing services. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0801, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.	16-239-0810	Fees for other stowage examination services. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0810, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.
16-239-0802	Fees for official sampling and inspecting without weighing and fees for official sampling only. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0802, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.	16-239-0811	Fees for phytosanitary certification. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0811, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.
16-239-0803	Fees for official Class X weighing services without an inspection. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0803, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.	16-239-0812	Fees for miscellaneous services. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0812, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.
16-239-0804	Fees for other official weighing services. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0804, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight	16-239-0813	Fees for other services under the United States Grain Standards Act. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0813, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chap-

	ter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.		
16-239-090	Fees for performing official Agricultural Marketing Act of 1946 services. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-090, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.	16-239-0909	Fees for other stowage examination services. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0909, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.
16-239-0901	Fees for combination inspection and weighing services. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0901, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.	16-239-0910	Fees for phytosanitary certification. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0910, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.
16-239-0902	Fees for official sampling and inspecting without weighing and fees for official sampling only. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0902, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.	16-239-0911	Fees for miscellaneous services. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0911, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.
16-239-0903	Fees for official weighing services without inspections. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0903, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.	16-239-0912	Fees for other services under the Agricultural Marketing Act of 1946. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0912, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.
16-239-0904	Fees for other official weighing services. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0904, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.	16-239-100	Fees for services performed under state regulation or standards and for services "as specified" by the applicant when no official standards exist. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-100, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.
16-239-0905	Fees for inspection of submitted samples. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0905, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.	16-239-1010	Fees for inspecting miscellaneous agricultural commodities under chapter 16-213 WAC. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-1010, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.
16-239-0906	Fees for factor analysis. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0906, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.	16-239-1020	Fees for miscellaneous services. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-1020, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.
16-239-0907	Fees for qualitative or quantitative testing for the presence of Mycotoxins using USDA approved "ELISA" or "Fluorometric" methods. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0907, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.	16-239-1030	Fees for services not specifically identified in WAC 16-239-1010 and 16-239-1020. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-1030, filed 5/30/03, effective 6/30/03.] Repealed by 05-11-058, filed 5/17/05, effective 6/17/05. Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration.
16-239-0908	Fees for stowage examination services on vessels or ocean-going barges. [Statutory Authority: RCW 22.09.790 and chapter 34.05 RCW. 03-12-040, § 16-239-0908, filed 5/30/03, effective 6/30/03.] Repealed by		

Reviser's note: Later promulgation, see chapter 16-240 WAC.

Chapter 16-404
STANDARDS FOR SUMMER APPLES MARKETING WITHIN
WASHINGTON

- 16-404-001 Promulgation. [Order 987, Promulgation, filed 7/26/65; Emergency Order 986, filed 7/26/65.] Repealed by 05-10-091, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
- 16-404-010 Definitions. [Order 987, Regulation, filed 7/26/65; Emergency Order 986, filed 7/26/65.] Repealed by 05-10-091, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
- 16-404-020 Grades—Washington extra fancy apples. [Order 987, Regulation 1, filed 7/26/65; Emergency Order 986, filed 7/26/65.] Repealed by 05-10-091, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
- 16-404-030 Grades—Washington summer fancy apples. [Order 987, Regulation 2, filed 7/26/65; Emergency Order 986, filed 7/26/65.] Repealed by 05-10-091, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
- 16-404-040 Grades—Color percentages. [Order 987, Regulation 3, filed 7/26/65; Emergency Order 986, filed 7/26/65.] Repealed by 05-10-091, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
- 16-404-050 Marking requirements. [Order 987, Regulation 4, filed 7/26/65; Emergency Order 986, filed 7/26/65.] Repealed by 05-10-091, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
- 16-404-060 Tray packs. [Order 987, Regulation 5, filed 7/26/65; Emergency Order 986, filed 7/26/65.] Repealed by 05-10-091, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
- 16-404-070 Exceptions. [Order 987, Regulation 6, filed 7/26/65; Emergency Order 986, filed 7/26/65.] Repealed by 05-10-091, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.

Reviser's note: Later promulgation, see chapter 16-403 WAC.

Chapter 16-448
STANDARDS FOR POTATOES

- 16-448-130 Promulgation. [Order 1263, § 16-448-130, filed 5/15/72.] Repealed by 05-10-090, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
- 16-448-135 Applicability. [Order 1263, § 16-448-135, filed 5/15/72.] Repealed by 05-10-090, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
- 16-448-140 Washington No. 1 grade. [Order 1263, § 16-448-140, filed 5/15/72.] Repealed by 05-10-090, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
- 16-448-145 Washington commercial. [Order 1263, § 16-448-145, filed 5/15/72.] Repealed by 05-10-090, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
- 16-448-150 Washington No. 2. [Order 1263, § 16-448-150, filed 5/15/72.] Repealed by 05-10-090, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
- 16-448-155 Culls. [Order 1263, § 16-448-155, filed 5/15/72.] Repealed by 05-10-090, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
- 16-448-160 Size. [Order 1263, § 16-448-160, filed 5/15/72.] Repealed by 05-10-090, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
- 16-448-165 Tolerances. [Order 1263, § 16-448-165, filed 5/15/72.] Repealed by 05-10-090, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
- 16-448-170 Application of tolerances. [Order 1263, § 16-448-170, filed 5/15/72.] Repealed by 05-10-090, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
- 16-448-175 Samples for grade and size determination. [Order 1263, § 16-448-175, filed 5/15/72.] Repealed by 05-10-090, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
- 16-448-180 Skinning. [Order 1263, § 16-448-180, filed 5/15/72.] Repealed by 05-10-090, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.

- 16-448-185 Definitions. [Order 1263, § 16-448-185, filed 5/15/72.] Repealed by 05-10-090, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
- 16-448-190 Marking requirements. [Order 1263, § 16-448-190, filed 5/15/72.] Repealed by 05-10-090, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
- 16-448-195 Forbidden practices. [Order 1263, § 16-448-195, filed 5/15/72.] Repealed by 05-10-090, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
- 16-448-200 Effective date. [Order 1263, § 16-448-200, filed 5/15/72.] Repealed by 05-10-090, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.

Chapter 16-54 WAC
ANIMAL IMPORTATION

WAC

- 16-54-082 Domestic bovine animals.

WAC 16-54-082 Domestic bovine animals. All domestic bovine animals (including bison) entering Washington shall be moved on a permit issued by the office of the state veterinarian. All domestic bovine animals (including bison) shall meet the following requirements:

(1) Tuberculosis. All beef and dairy cattle must originate from herds not under quarantine in a not less than modified accredited area. The state veterinarian may require a negative tuberculosis test within thirty days of import for cattle (including bison) from the states classified as modified accredited or accredited free if *Mycobacterium bovis* (M. bovis) has been cultured from a herd in that state within the previous twelve months. All Mexican cattle imported from Mexico within three years of date of importation to Washington must show proof of a tuberculosis retest at least one hundred twenty days after import to the United States. Such cattle without proof of retest must be held on the premises of destination under Hold Order/Quarantine in Washington and kept separate from all other cattle for not less than one hundred twenty nor more than one hundred eighty days from the date of entry and retested for tuberculosis during the one hundred twenty to one hundred eighty-day period.

All dairy cows and bulls six months of age or older must test negative for bovine tuberculosis within sixty days prior to entering Washington. These dairy cattle must be identified with a USDA silver identification ear tag or a RFID (Radio Frequency Identification) tag. Dairy heifers and bull calves under six months of age entering Washington must obtain a permit and upon entry will be issued a hold order/quarantine requiring the animals to proceed directly to a premise or designated facility and to be held separate from all other cattle until they test negative for bovine tuberculosis after six months of age. Dairy heifers and bull calves under six months of age must be identified with a USDA silver identification ear tag or a RFID (Radio Frequency Identification) tag. Dairy cattle that originate in an accredited tuberculosis free herd as defined by USDA in 9 CFR Chapter 1, Part 77 (January 1, 2005) and for which both an accredited herd number and date of last tuberculosis test are shown on the official interstate health certificate or certificate of veterinary inspection, dairy steers and spayed heifers being imported to restricted feedlots to be fed for slaughter, dairy cattle consigned to federally inspected slaughter plants for immediate slaughter, and dairy cattle consigned to a state federally approved livestock mar-

ket to be sold directly to slaughter only are exempt from bovine tuberculosis testing under this section.

(2) Brucellosis health certificate requirements. All domestic bovine animals (including bison), except those consigned to restricted feedlots, to federally inspected slaughter plants for immediate slaughter, or beef breed cattle, slaughter only dairy breed cattle, or dairy breed cattle from Oregon, Montana, and Idaho consigned to a state-federal approved livestock market, shall be accompanied by an official interstate health certificate and shall meet the following requirements:

(a) Brucellosis test.

(i) Cattle from class free and A states.

(A) Sexually intact heifers from brucellosis quarantined herds in class free and A states shall not be imported into the state of Washington except for immediate slaughter at a federally inspected slaughter plant.

(B) Cattle other than those referred to in (a)(i)(A) of this subsection from class free or A states which are test eligible, unless destined for a restricted feedlot or for immediate slaughter at a federally inspected slaughter establishment, must be negative to an official brucellosis test conducted within thirty days prior to date of entry. Cattle not considered test eligible include:

(I) Calves under six months of age.

(II) Steers and spayed heifers.

(III) Officially vaccinated dairy cattle under twenty months of age and officially vaccinated beef cattle under twenty-four months of age.

(IV) Cattle from a certified brucellosis free herd.

(V) Cattle from selected brucellosis free states designated by the Washington state veterinarian.

(ii) Cattle from Class B or C states.

(A) Sexually intact females from other than certified brucellosis free herds in states classified B or C by the USDA shall not be imported into the state of Washington except for immediate slaughter at a federally inspected slaughter establishment.

(B) Sexually intact males from Class B states which are test eligible, unless destined for a restricted feedlot or for immediate slaughter at a federally inspected slaughter establishment, must be negative to an official brucellosis test conducted within thirty days prior to date of entry and held on the premises of destination and kept separate from all other cattle for retest not less than forty-five nor more than one hundred twenty days from the date of the preentry test. Cattle not considered test eligible include:

(I) Calves under six months of age.

(II) Steers and spayed heifers.

(III) Cattle from a certified brucellosis free herd.

(C) Sexually intact males from Class C states which are test eligible must be negative to two official brucellosis tests conducted prior to entry at least sixty days apart, the second test to be conducted within thirty days of entry. Those cattle shall be held on the premises of destination and kept separate from all other cattle for retest not less than forty-five nor more than one hundred twenty days from the date of the second negative preentry test. Cattle not considered test eligible include:

(I) Calves under six months of age.

(II) Steers and spayed heifers.

(III) Cattle from a certified brucellosis free herd.

(iii) Beef cattle eligible for brucellosis testing coming from class free or A states or dairy cattle coming from Idaho, Montana, or Oregon may be moved to state-federal approved livestock markets in Washington to meet entry health requirements.

(iv) Should brucellosis infection occur in the state of Washington as a result of importation of infected animals, all future importations from the state of origin shall be required to meet import regulations of the next lower classification. State regulatory officials of that state shall be notified and the lower classification entry requirement will be in effect for twelve months following notification to the state of origin.

(b) Brucellosis vaccinates—female dairy cattle. All female dairy cattle must be identified as official brucellosis vaccinates before entry into a dairy cow breeding herd. Except the following classes of cattle are exempt from this requirement:

(i) Calves under four months of age.

(ii) Those cattle consigned directly to a restricted feedlot.

(iii) Spayed heifers.

(c) Brucellosis vaccinates—female beef cattle. All female beef breed cattle must be identified as official brucellosis vaccinates before entry into a beef cow breeding herd, except the following classes of cattle are exempt from this requirement:

(i) Calves under four months of age.

(ii) Cattle sold or consigned to a restricted feedlot.

(iii) Spayed heifers.

(d) Cattle from a certified brucellosis free country may be imported if the state veterinarian, upon being assured that to allow such cattle to enter would not create any jeopardy to the livestock industry of the state of Washington, issues a special permit for such entry.

(3) Scabies. The office of the state veterinarian may require that any cattle from a known infected area be dipped at an official dipping facility within ten days of entry and, except those consigned to a federally inspected slaughter plant for immediate slaughter within fourteen days, be accompanied by an official interstate health certificate. Ivermectin may be used as an alternative to the dipping procedure for beef and nonlactating dairy animals.

(4) Vesicular stomatitis. The office of the state veterinarian may require that:

(a) Any cattle be accompanied by an official interstate health certificate except those consigned to a federally inspected slaughter plant for immediate slaughter within fourteen days;

(b) Dairy breed cattle be held separate and apart from all other cattle for a period of seven days at the point of destination and rechecked by an accredited veterinarian at the end of that period; except that dairy breed cattle from known infected areas shall not be allowed entry into the state; and

(c) Beef breed cattle from known infected areas be held separate and apart from all other cattle for a period of thirty days either prior to entry or at the point of destination or both.

(5) Temporary grazing permits. Herd owners desiring to move cattle into Washington for temporary grazing purposes must obtain a prior permit from the office of the state veterinarian. The state veterinarian may, if deemed necessary, require a brucellosis herd test and/or an official health certifi-

icate for any cattle entering the state for grazing purposes. Applicants must also file an approved herd plan with the office of the state veterinarian to phase out all brucellosis nonvaccinates in the herd prior to January 1, 1988. Grazing permits shall be for one specified season only and shall be valid for movement to only that destination declared on the permit. A copy of the permit shall accompany any vehicle transporting cattle into the state for such temporary grazing purposes.

[Statutory Authority: Chapters 16.36 and 34.05 RCW. 05-14-019, § 16-54-082, filed 6/24/05, effective 7/25/05. Statutory Authority: RCW 16.36.040. 99-09-023, § 16-54-082, filed 4/15/99, effective 5/16/99; 97-01-067 (Order 6009), § 16-54-082, filed 12/16/96, effective 1/16/97. Statutory Authority: RCW 16.36.040 and 16.36.096. 92-21-039, § 16-54-082, filed 10/15/92, effective 11/15/92. Statutory Authority: Chapter 16.36 RCW. 89-24-021 (Order 2021), § 16-54-082, filed 11/30/89, effective 12/31/89. Statutory Authority: RCW 16.36.040 and 16.36.050. 88-05-003 (Order 1964), § 16-54-082, filed 2/5/88; 87-08-021 (Order 1918), § 16-54-082, filed 3/25/87; 84-16-022 (Order 1838), § 16-54-082, filed 7/24/84. Statutory Authority: Chapter 16.36 RCW. 83-09-009 (Order 1792), § 16-54-082, filed 4/8/83. Statutory Authority: Chapters 16.36 and 16.44 RCW. 83-04-030 (Order 1782), § 16-54-082, filed 1/27/83. Statutory Authority: Chapters 16.36 and 16.40 RCW. 82-03-019 (Order 1752), § 16-54-082, filed 1/14/82; 81-10-047 (Order 1730), § 16-54-082, filed 5/1/81. Statutory Authority: Chapters 16.36 and 16.44 RCW. 78-06-116 (Order 1579), § 16-54-082, filed 6/7/78; Order 1540, § 16-54-082, filed 10/17/77.]

Chapter 16-157 WAC

ORGANIC FOOD STANDARDS AND CERTIFICATION

WAC

16-157-220 Producer fee schedule.

WAC 16-157-220 Producer fee schedule. Producers who wish to apply for the organic food certification program must apply to the department each year.

(1) The cost per application shall be based on the following fee schedule.

(a) Renewal applicants -

Application fees must be based on the previous calendar year's sales of organic food. In the event that the current calendar year's sales exceed the previous year's sales, the department may bill the producer for the additional fee. In the event that the current calendar year's sales are less than the previous year's sales, the producer may request a refund for the reduced fee. In addition, renewal applications postmarked after February 1, must pay a late fee of seventy-five dollars. Renewal applicants that are adding additional sites to their organic certification must pay a new site fee of fifty dollars for each additional site.

(b) New applicants -

Application fees must be based on an estimate of the current year's sales of organic food. In the event that the current calendar year's sales exceed the estimate, the department may bill the producer for the additional fee. In the event that the current calendar year's sales are less than the estimate, the producer may request a refund for the reduced fee. In addition, new applicants must pay a one hundred dollar new applicant fee. New applicants that are seeking organic certification for more than one site must pay a site fee of fifty dollars for each additional site. The fee shall accompany the application.

SALES		ANNUAL FEE	
\$ 0 -	\$ 15,000	.....	\$ 200
\$ 15,001 -	\$ 20,000	.....	\$ 225
\$ 20,001 -	\$ 25,000	.....	\$ 280
\$ 25,001 -	\$ 30,000	.....	\$ 335
\$ 30,001 -	\$ 35,000	.....	\$ 390
\$ 35,001 -	\$ 42,500	.....	\$ 470
\$ 42,501 -	\$ 50,000	.....	\$ 560
\$ 50,001 -	\$ 65,000	.....	\$ 670
\$ 65,001 -	\$ 80,000	.....	\$ 835
\$ 80,001 -	\$100,000	.....	\$ 1,000
\$100,001 -	\$125,000	.....	\$ 1,150
\$125,001 -	\$150,000	.....	\$ 1,300
\$150,001 -	\$175,000	.....	\$ 1,450
\$175,001 -	\$200,000	.....	\$ 1,600
\$200,001 -	\$240,000	.....	\$ 1,750
\$240,001 -	\$280,000	.....	\$ 1,900
\$280,001 -	\$325,000	.....	\$ 2,050
\$325,001 -	\$375,000	.....	\$ 2,200
\$375,001 -	\$425,000	.....	\$ 2,450
\$425,001 -	\$500,000	.....	\$ 2,700
\$500,001 -	\$750,000	.....	\$ 3,000
\$750,001 -	and up	..	\$2,200 plus 0.11% of gross organic sales

(2) Transitional acreage fee - In addition to the producer application fee, each applicant must pay a fee of fifty dollars per site for the land for which they are requesting transitional certification.

[Statutory Authority: Chapters 15.86 and 34.05 RCW. 05-22-055, § 16-157-220, filed 10/28/05, effective 11/28/05. Statutory Authority: Chapter 15.86 RCW. 03-03-044, § 16-157-220, filed 1/10/03, effective 2/10/03; 02-10-090, § 16-157-220, filed 4/29/02, effective 5/30/02.]

Chapter 16-218 WAC

HOPS—CERTIFICATION ANALYSES—FEES

WAC

16-218-015	What fees does the department charge for the certification of hops?
16-218-025	What does the department charge for chemical analysis regarding brewing values and additional constituents in raw hops, hop extract, hop pellets and hop powder?
16-218-035	What does the department charge for issuing export certificates for hops and hop products?
16-218-040	When are the fees and charges required by this chapter due to the department?

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-218-010	Schedule of fees for physical grading. [Statutory Authority: RCW 22.09.790. 99-23-073, § 16-218-010, filed 11/16/99, effective 12/17/99. Statutory Authority: RCW 22.09.830(2). 93-15-069, § 16-218-010, filed 7/16/93, effective 8/16/93. Statutory Authority: Chapter 22.09 RCW. 86-17-032 (Order 1905), § 16-218-010, filed 8/15/86; 80-08-048 (Order 1710), § 16-218-010, filed 6/30/80; 79-04-077 (Order 1596), § 16-218-010, filed 3/30/79; 78-07-074 (Order 1580), § 16-218-010, filed 6/30/78; Order 1372, § 16-218-010, filed 7/5/74; Order 1156, § 16-218-010, filed 7/1/70, effective 8/1/70; Order 1095, § 16-218-010, filed 6/28/68, effective 8/1/68; Emergency Order 1093, § 16-218-010, filed 6/28/68; Order 995, Regulation 1, filed 12/8/65; Order 815, Regulations 1 and 2, effective 7/1/60.] Repealed by 05-07-150, filed 3/23/05, effective 4/23/05. Statutory Authority: Chapters 22.09 and 34.05 RCW, 2003 1st sp.s. c 25 § 309(2).
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- 16-218-02001 Schedule of charges for chemical analyses of hops, hop extract, hop pellets or hop powder. [Statutory Authority: RCW 22.09.790, 99-23-073, § 16-218-02001, filed 11/16/99, effective 12/17/99; 97-05-003, § 16-218-02001, filed 2/5/97, effective 3/8/97. Statutory Authority: RCW 22.09.830(2), 93-15-069, § 16-218-02001, filed 7/16/93, effective 8/16/93. Statutory Authority: Chapter 22.09 RCW, 86-17-032 (Order 1905), § 16-218-02001, filed 8/15/86; 79-04-077 (Order 1596), § 16-218-02001, filed 3/30/79; 78-07-074 (Order 1580), § 16-218-020 (codified as WAC 16-218-02001), filed 6/30/78.] Repealed by 05-07-150, filed 3/23/05, effective 4/23/05. Statutory Authority: Chapters 22.09 and 34.05 RCW, 2003 1st sp.s. c 25 § 309(2).
- 16-218-030 Schedule of fees for certificates. [Statutory Authority: RCW 22.09.830(2), 93-15-069, § 16-218-030, filed 7/16/93, effective 8/16/93.] Repealed by 05-07-150, filed 3/23/05, effective 4/23/05. Statutory Authority: Chapters 22.09 and 34.05 RCW, 2003 1st sp.s. c 25 § 309(2).

WAC 16-218-015 What fees does the department charge for the certification of hops? (1) Based upon standards established by the Federal Grain Inspection Service of the United States Department of Agriculture, the Washington state department of agriculture's (department) fees for the certification of hops are:

Type of Inspection and Other Service	Fee Charged for Inspection and Other Service
(a) Official lot inspections and certification for baled hops.	One dollar and twenty-five cents per bale with a minimum charge of thirty dollars per lot for official inspection and grading with certification.
(b) Official lot inspection and/or certification for alternative methods of packaging hops, or other services for which no fee has been established.	A contract fee may be negotiated, based on the agency's costs to furnish the services.
(c) Submitted sample inspections and certification.	One hundred fifty dollars for an unofficial sample submitted for grading with certification of a quantity not to exceed 100,000 lbs. of dried hops.
(d) Appeal inspections.	The Federal Grain Inspection Service in Portland, Oregon establishes the charges for appeal inspections, and payments for such inspections must be made to them. Department time for sampling, handling and administration regarding appeal inspections will be assessed at the sampler hourly rate.

(2)(a) Before official sampling of baled hops takes place, each and every bale in a lot of hops must be readily accessible so that:

- (i) Each bale can be properly stenciled; and

(ii) Samples can be drawn from the bales selected by the inspector.

(b) Official samples drawn from baled hops must be brought back to the laboratory by the inspector for grading analysis.

(3) The department may perform official lot inspection and/or certification of hops packaged by alternative methods (e.g., hops not baled prior to processing) subject to conditions specified in a written agreement between the department and the person(s) requesting the service.

(4)(a) Submitted samples provided by a grower or dealer for grading analysis must be representative of the lot(s) and the hop material.

(b) Submitted samples are delivered to the laboratory.

[Statutory Authority: Chapters 22.09 and 34.05 RCW, 2003 1st sp.s. c 25 § 309(2), 05-07-150, § 16-218-015, filed 3/23/05, effective 4/23/05.]

WAC 16-218-025 What does the department charge for chemical analysis regarding brewing values and additional constituents in raw hops, hop extract, hop pellets and hop powder? (1) Before official sampling of baled hops takes place, each and every bale in a lot of hops must be readily accessible so that:

(a) Each bale can be properly stenciled (not done for brewing value only sampling); and

(b) Samples can be drawn from the bales selected by the inspector.

(2) Official samples drawn from baled hops must be brought back to the laboratory by the inspector for chemical analysis, simultaneous with grading analysis.

(3) Brewing value samples are obtained from a representative composite of the official samples drawn for grade analysis.

(4) Brewing value samples not sampled simultaneously for grade analysis will be charged at the same fee per bale.

(5) When department personnel officially sample hops, a brewing value certificate will be issued when the chemical analysis is done.

(6)(a) Submitted brewing value samples provided by a grower or dealer for chemical analysis must be representative of the lot(s).

(b) Submitted samples are delivered to the laboratory.

(7) Submitted brewing value certificates will be issued for submitted samples when the chemical analysis is done.

(8) Department fees for the chemical analyses of officially sampled raw hops are:

Type of Analyses	Fee	Minimum Fee
(a) ASBC spectrophotometric with moisture	\$0.35 per bale	\$30.00 per sample
(b) ASBC spectrophotometric/conductometric or EBC conductometric without moisture	\$0.30 per bale	\$30.00 per sample
(c) Mebak, Zurich, Verzele, Ganzlin, or conductometric	\$0.60 per bale	\$60.00 per sample

(9) Department fees for chemical analyses of submitted raw hops, hop extract, hop pellets or hop powders are:

Type of Analyses	Fee
(a) ASBC spectrophotometric	\$30.00
(b) ASBC conductometric	\$30.00
(c) EBC conductometric	\$30.00
(d) EBC conductometric (Wollmer, Zurich, Mebak, Verzele, Ganzlin, or Resins (hard or soft))	\$60.00
(e) Spectrophotometric of tannins, Wollmer, etc.	\$55.00
(f) Methylene chloride	\$80.00
(g) Tannin	\$55.00
(h) Ash	\$20.00
(i) SO ₂	\$25.00
(j) H ₂ O	\$10.00
(k) HPLC	\$100.00
(l) Total oil	\$25.00
(m) Oil constituents analysis	\$145.00
(n) Wort test, particle size	\$10.00

(10)(a) The department will assess hourly charges for analytical chemistry work if no other fee has been established.

(b) Hourly charges are set by written agreement and shall be based on the costs incurred to conduct the analysis, such as:

- Labor
- Laboratory equipment
- Chemicals and materials
- Administration and overhead.

[Statutory Authority: Chapters 22.09 and 34.05 RCW, 2003 1st sp.s. c 25 § 309(2). 05-07-150, § 16-218-025, filed 3/23/05, effective 4/23/05.]

WAC 16-218-035 What does the department charge for issuing export certificates for hops and hop products? The department charges the following fees for issuing certificates related to hops and hop products:

Type of Certificate	Fee for Each Certificate
(1) State phytosanitary certificates	\$25.00
(2) Other certificates attesting to origin, compliance with standards of other states or nations or specifications of contracts, or conditions of production or processing	\$20.00

[Statutory Authority: Chapters 22.09 and 34.05 RCW, 2003 1st sp.s. c 25 § 309(2). 05-07-150, § 16-218-035, filed 3/23/05, effective 4/23/05.]

WAC 16-218-040 When are the fees and charges required by this chapter due to the department? (1) The department will bill you for the services it renders.

(2) The fees and charges billed to you are due to the department within thirty days of the statement date.

(3) If the department does not receive your payment within thirty days of the statement date, the department may:

- (a) Withhold its services from you until your delinquent account is paid; and
- (b) Accept only cash payments from you for future services rendered.

(4) The department assesses a penalty of twelve percent per annum on all delinquent account balances.

[Statutory Authority: Chapters 22.09 and 34.05 RCW, 2003 1st sp.s. c 25 § 309(2). 05-07-150, § 16-218-040, filed 3/23/05, effective 4/23/05.]

Chapter 16-229 WAC

SECONDARY AND OPERATIONAL AREA CONTAINMENT FOR BULK PESTICIDES

WAC

16-229-010

Definitions.

WAC 16-229-010 Definitions. The definitions set forth in this section shall apply throughout this chapter unless the context otherwise requires:

(1) **"Approved air gap"** means a physical separation between the free-flowing end of a water supply pipeline and the overflow rim of an open or nonpressurized receiving vessel. To be an approved air gap, the separation must be at least:

(a) Twice the diameter of the supply piping measured vertically from the overflow rim of the receiving vessel, and in no case be less than one inch, when unaffected by vertical surfaces (sidewalls); or

(b) Three times the diameter of the supply piping, if the horizontal distance between the supply pipe and a vertical surface (sidewall) is less than or equal to three times the diameter of the supply pipe, or if the horizontal distance between the supply pipe and intersecting vertical surfaces (sidewalls) is less than or equal to four times the diameter of the supply pipe and in no case less than one and one-half inches.

(2) **"Approved reduced pressure principle backflow prevention assembly (RPBA)"** means an RPBA of a make, model and size that is approved by the Washington state department of health.

(3) **"Appurtenances"** means all valves, pumps, fittings, pipes, hoses, metering devices, and mechanical devices which are connected to a storage container, or which are used to transfer a material into or out of such container.

(4) **"Bulk pesticide"** means any registered pesticide which is transported or held in an individual container in undivided quantities of greater than fifty-five U.S. gallons liquid measure or one hundred pounds net dry weight.

(5) **"Certified engineer"** means a licensed professional engineer, registered in the state of Washington in the discipline in which he/she is practicing.

(6) **"Department"** means the Washington state department of agriculture.

(7) **"Discharge"** means a spill, leak, or release, accidental or otherwise, from a storage container, container or appurtenance. It does not include a fully contained transfer of pesticide which is made pursuant to sale, storage, distribution or use.

(8) **"Dry pesticide"** means pesticide which is in solid form prior to any application or mixing for application, and includes formulations such as dusts, wettable powders, dry flowable powders, granules, and water dispersible granules.

(9) **"Liquid pesticide"** means pesticide in liquid form, and includes solutions, emulsions, suspensions, slurries, and pesticide rinsates.

(10) **"Mini bulk pesticide"** means an amount of liquid pesticide greater than fifty-five gallons but not exceeding five hundred gallons which is held in a single container designed

for ready handling and transport, which has been filled by the original pesticide manufacturer or repackager, and to which no substance has been added by any person.

(11) **"Not technically feasible"** means compliance is not physically or technically possible or feasible, and/or compliance cannot be achieved without compromising operational safety, and/or significantly compromising operational access. Monetary cost of compliance alone shall not be sufficient for the department to determine that compliance is not technically feasible.

(12) **"Operational area"** means an area or areas where pesticides are transferred, loaded, unloaded, mixed, repackaged, refilled or where pesticides are cleaned, or rinsed from containers or application, handling, storage or transportation equipment.

(13) **"Operational area containment"** means any structure or system designed and constructed to intercept and contain discharges, including storage container or equipment wash water, rinsates, and rainwater from the operational area(s).

(14) **"Permanent mixing/loading site"** means a site (location) at which more than three hundred gallons of liquid pesticide (formulated product) or three thousand pounds of dry pesticide or at which a total of fifteen hundred pounds of pesticides as active ingredients are being mixed, repackaged or transferred from one container to another within a calendar year: Provided, That wood preservative application systems already regulated by 40 CFR, Parts 264.570-575 and Parts 265.440-445 shall be exempt.

(15) **"Permanent storage facility"** means a location at which liquid bulk pesticide in a single container or aggregate quantities in excess of five hundred U.S. gallons or dry bulk pesticide in undivided quantities in excess of two thousand pounds is held in storage: Provided, That mini-bulk pesticide containers are exempt from this chapter.

(16) **"Pesticide"** means, but is not limited to:

(a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest or which the director may declare to be a pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant; and

(c) Any spray adjuvant.

(d) For the purpose of establishing permanent mixing/loading site threshold values petroleum oils and products containing only Kaolin clay as the active ingredient are exempt from this chapter.

(17) **"Primary containment"** means the storage of liquid or dry bulk pesticide in storage containers at a permanent storage facility.

(18) **"Rinsate"** means the liquid generated from the rinsing of any equipment or container that has come in direct contact with any pesticide, including: Recovered sedimentation, washwater, contaminated precipitation, or other contaminated debris.

(19) **"Secondary containment"** means a device or structure designed, constructed, and maintained to hold or confine a discharge of a liquid pesticide from a permanent storage facility.

(20) **"Storage container"** means a container, including a rail car, nurse tank or other mobile container, that is used or intended for the storage of bulk liquid or dry pesticide. It does not include a mobile container at a storage facility for less than fifteen days if this storage is incidental to the loading or unloading of a storage container at the bulk pesticide storage facility. Storage container does not include underground storage containers or surface impoundments such as lined ponds or pits.

(21) **"Substantially similar protection"** means alternative containment and management practices that prevent or control releases to the environment to the same or similar degree as the protections afforded by full compliance with this chapter.

(22) **"Temporary field storage"** means a storage container with the capacity to store two thousand five hundred gallons or less of bulk liquid pesticide that remains in the same location for no more than fourteen consecutive days in any six-month period. Provided, That temporary field storage containers used to store soil fumigants shall be allowed a maximum capacity of ten thousand gallons or less. Containers must be chemically compatible with the material, which is being stored. Such containers can remain in the same location for no more than fourteen consecutive days in any six-month period. Liquid bulk pesticide application tanks directly attached to an apparatus for the purpose of chemigation are exempt from this chapter.

(23) **"Washwater"** means the liquid generated from the rinsing of the exterior of any equipment, containers or secondary containment or operational areas which have or may have come in direct contact with any pesticide.

[Statutory Authority: RCW 17.21.030 (1)(a) and chapter 34.05 RCW. 05-05-036, § 16-229-010, filed 2/11/05, effective 3/14/05. Statutory Authority: RCW 15.58.040, 17.21.030, chapter 34.05 RCW. 03-09-034, § 16-229-010, filed 4/8/03, effective 5/9/03. Statutory Authority: Chapters 15.58 and 17.21 RCW. 00-23-074, § 16-229-010, filed 11/17/00, effective 12/18/00. Statutory Authority: RCW 15.54.800 and 15.58.040. 93-22-093 (Order 5018), § 16-229-010, filed 11/2/93, effective 3/1/94.]

Chapter 16-237 WAC

COMMODITY STORAGE WAREHOUSES AND GRAIN DEALERS

WAC

16-237-195

Fees for warehouse audit and related services.

WAC 16-237-195 Fees for warehouse audit and related services. The following fees apply to the following services:

(1) For year-end inventories requested by a warehouse operator, the department charges the following:

A fee of:		If requested:
(a)	10% of the warehouse license fee	By July 30th of each year
(b)	15% of the warehouse license fee	After July 30 of each year

(2)(a) The hourly rate for all other services performed by the warehouse audit program at the request of warehouse operators, grain dealers and/or other government agencies is \$33.00 per hour.

(b) These services include, but are not limited to, technical assisted audits of records and inventory, observation of sampling of commodities, collection of samples for the Karnal Bunt Survey, and remeasurement of commodities and storage bins.

(3) In addition to the hourly rate established in subsection (2)(a) of this section, the department assesses appropriate charges for overtime, mileage, meals, and lodging expenses incurred by department personnel when providing the types of services identified in subsection (2)(b) of this section.

[Statutory Authority: 2003 1st sp.s. c 25 and chapters 22.09 and 34.05 RCW. 05-07-080, § 16-237-195, filed 3/15/05, effective 4/15/05. Statutory Authority: RCW 22.09.020(13), 00-21-043, § 16-237-195, filed 10/13/00, effective 11/13/00.]

Chapter 16-240 WAC
WSDA GRAIN INSPECTION PROGRAM—
DEFINITIONS, STANDARDS, AND FEES
 (Formerly chapter 16-239 WAC)

WAC

16-240-010	Definitions.
16-240-020	Washington state grain and commodity service points.
16-240-030	Commodities covered by chapter 22.09 RCW.
16-240-032	Grades and standards adopted by Washington state.
16-240-034	Service requests.
16-240-036	Permanent staffing requests.
16-240-038	Revenue minimum.
16-240-040	Official commercial inspection services.
16-240-042	Payment of fees and charges.
16-240-044	GIPSA, FGIS scale authorization.
16-240-046	Straight time rate.
16-240-048	Rates for working outside established business hours (overtime).
16-240-050	Calculating travel time, mileage and per diem.
16-240-052	Fees for stowage examination.
16-240-054	Service cancellation fee.
16-240-060	WSDA grain program fees for service.
16-240-070	Fees for services under the United States Grain Standards Act.
16-240-080	Fees for services under the Agricultural Marketing Act of 1946.
16-240-090	Fees for other services performed by WSDA.

WAC 16-240-010 Definitions. "Department" means the Washington state department of agriculture.

"Fee" means any charge made by the department for:

- (1) Inspecting and handling any commodity; or
- (2) Any service related to weighing or storing grains or commodities.

"GIPSA, FGIS" means the Grain Inspection, Packers and Stockyards Administration, Federal Grain Inspection Service.

"Metric ton" means two thousand two hundred four and six-tenths pounds.

"Official commercial inspection services" means a contractual agreement between the applicant and the department for services specified by the applicant that will be provided at an applicant's facility.

"Revenue minimum" means the amount of revenue that must be collected by the department to offset expenses. In order to act as an official inspection agency under the United States Grain Standards Act and the Agricultural Marketing Act of 1946, the program must collect revenue to offset expenses. The grain inspection program is supported entirely by the fees it generates from the services it provides

as required by RCW 22.09.790. The circumstances under which charges occur to collect the revenue minimum are stated in WAC 16-240-038.

"Service point" means the Washington state department of agriculture offices and surrounding service areas authorized by the Federal Grain Inspection Service to provide sampling, inspecting, weighing, and certification services.

"USDA" means the United States Department of Agriculture.

[Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration. 05-11-058, § 16-240-010, filed 5/17/05, effective 6/17/05.]

WAC 16-240-020 Washington state grain and commodity service points. The offices located in the following cities are service points for providing sampling, inspecting, weighing, and certification services.

(1) Service points:

- (a) Colfax.
- (b) Kalama.
- (c) Olympia.
- (d) Pasco.
- (e) Seattle.
- (f) Spokane.
- (g) Tacoma.
- (h) Vancouver.

(2) Aberdeen has been delegated to Washington state as a service point by the Federal Grain Inspection Service. Services for Aberdeen are as follows:

(a) Services for Aberdeen may be requested through the Tacoma grain inspection office.

(b) Travel time and mileage will be assessed from Tacoma to Aberdeen for all services requested at Aberdeen until a permanent staff is established.

(3) Inspection points may be added or deleted within the department's delegated and designated service area.

[Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration. 05-11-058, § 16-240-020, filed 5/17/05, effective 6/17/05.]

WAC 16-240-030 Commodities covered by chapter 22.09 RCW. Commodities covered under chapter 22.09 RCW and this chapter with respect to sampling, inspection, weighing, and quality or constituent determinations include all:

- (1) Grains with standards or inspection criteria established under the United States Grain Standards Act;
- (2) Commodities with standards or inspection criteria established under the Agricultural Marketing Act;
- (3) Commodities with standards or inspection criteria established under Washington state standards; and
- (4) By-products resulting from conditioning or processing the grains and commodities listed in this section.

[Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration. 05-11-058, § 16-240-030, filed 5/17/05, effective 6/17/05.]

WAC 16-240-032 Grades and standards adopted by Washington state. Washington state adopts the following grades and standards:

(1) The grades and standards established by the United States Department of Agriculture from August 1, 1984, to the present that apply to all grains and commodities regulated by this chapter.

(2) The procedures to sample, grade, test and weigh grains and commodities, established by the regulations and instructions under the United States Grain Standards Act and the Agricultural Marketing Act of 1946.

[Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration. 05-11-058, § 16-240-032, filed 5/17/05, effective 6/17/05.]

WAC 16-240-034 Service requests. An applicant must place a service request in order to ensure staffing:

(1) Service requests must be received by the inspection office by 2:00 p.m. of the last business day before the requested service.

(a) The notification requirement allows the department to secure adequate staffing to supply the requested service and to accommodate leave or adjust staffing for anticipated workloads.

(b) The notification requirement applies even if there is permanent staffing at the location (see WAC 16-240-036).

(c) Failure to meet the notification requirement may result in denial of service.

(2) Service requests beyond the office's usual scope or volume will be provided only if adequate numbers of qualified employees are available.

(3) The department reserves the right to determine the number of personnel necessary to provide the requested service.

[Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration. 05-11-058, § 16-240-034, filed 5/17/05, effective 6/17/05.]

WAC 16-240-036 Permanent staffing requests. An applicant may request the department to establish permanent staffing on shifts as shown below:

(1) Requests for permanent staffing of day, night, swing, or graveyard shifts must be made in writing at least seven business days prior to the beginning of the month for which the shift(s) are requested.

(a) Requests for permanent staffing of any night, swing or graveyard shift will be deemed to include a request for permanent staffing of the day shift.

(b) The requested shift(s) will be established if the department has an adequate number of trained personnel.

(c) Confirmation of staffing requirements must be received by the inspection office by 2:00 p.m. each day Monday through Friday, for the next service day, and by 2:00 p.m. of the last business day before a Saturday, Sunday, or holiday (see WAC 16-240-034).

(d) Failure to meet the notification requirement may result in denial of service.

(2) When the department is able to staff the permanent night, swing, or graveyard shift(s) requested by the applicant,

the overtime rate established under WAC 16-240-048 will be waived for the requested shift(s).

(3) Once established, permanent shifts will continue for a minimum of one calendar month.

(a) The request for a permanent shift will remain in effect until canceled.

(b) Cancellation requests must be received, in writing, at least fifteen business days prior to the end of the month.

(c) Applicants will be assessed for any shifts established at their request until the cancellation notice period has expired.

[Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration. 05-11-058, § 16-240-036, filed 5/17/05, effective 6/17/05.]

WAC 16-240-038 Revenue minimum. The circumstances under which charges occur to collect the revenue minimum are as follows:

(1) When the volume of work at the established fees does not generate revenue equivalent to the straight time hourly rate per hour, per employee, the straight time hourly rate will be assessed per hour, per employee.

(2) **Daily** averaging at export locations:

(a) When the **daily** volume of work at the established fees does not generate revenue equivalent to the straight time hourly rate per hour, per employee, including applicable supervisory and clerical employee hours, the department charges a fee to recover expenses.

(b) The straight time hourly rate will be assessed per hour, per employee.

(c) Service cancellation fees, WAC 16-240-054, are not considered to be revenue under daily averaging.

(3) **Monthly** averaging at export locations:

(a) When the applicant has requested the department to establish one or more permanent shifts, the applicant may request, in writing, that the revenue minimum required for staffing at the location be determined based on the completed invoices for the calendar month, instead of paying the fees for daily volumes of work.

(b) When the **monthly** volume of work at the established fees does not generate revenue equivalent to the straight time hourly rate per hour, per employee, including applicable supervisory and clerical employee hours, the department charges a fee to recover expenses.

(c) The straight time hourly rate will be assessed per hour, per employee.

(d) At export locations, the request for monthly averaging stays in effect until canceled.

(e) Requests to establish or cancel monthly averaging for the coming month must be received by 2:00 p.m. of the last business day in the month.

(f) Service cancellation fees, WAC 16-240-054, are not considered to be revenue under monthly averaging.

[Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration. 05-11-058, § 16-240-038, filed 5/17/05, effective 6/17/05.]

WAC 16-240-040 Official commercial inspection services. The department may provide on-site official commercial

cial inspection services, at the applicant's request, when all of the following conditions are met:

(1) Appropriate space, equipment and security must be provided by the applicant.

(2) The applicant must provide a written document fully describing the services requested. The applicant must fully describe the requested services in writing so the department can determine appropriate staffing levels and develop a guarantee of expenses proposal.

(3) The department must be able to provide appropriate licensed personnel to accomplish the service requested.

(4) A guarantee of expenses is negotiated.

[Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration. 05-11-058, § 16-240-040, filed 5/17/05, effective 6/17/05.]

WAC 16-240-042 Payment of fees and charges. All department fees and charges for services rendered are due within thirty days of the statement date. If the department does not receive payment within thirty days:

(1) Services may be withheld until the delinquent account is paid; or

(2) Cash payment for subsequent services may be required.

The department assesses a penalty of twelve percent per annum on all delinquent account balances.

[Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration. 05-11-058, § 16-240-042, filed 5/17/05, effective 6/17/05.]

WAC 16-240-044 GIPSA, FGIS scale authorization. The United States Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Federal Grain Inspection Service (USDA, GIPSA, FGIS) has delegated official scale testing and scale authorization authority to the department.

(1) The GIPSA, FGIS scale authorization fee established in WAC 16-240-060, per hour, per employee is assessed when GIPSA, FGIS scale authorization services are performed.

(2) In addition to the hourly GIPSA, FGIS scale authorization fee; the department may assess travel time at the scale authorization hourly rate, mileage beyond ten miles, per diem, or overtime, if applicable.

(3) All scales in Washington state under USDA, GIPSA, FGIS jurisdiction must comply with the following testing requirements:

(a) Scales must be tested and certified for accuracy at least twice each year by an authorized Washington state department of agriculture scale specialist or a USDA, GIPSA, FGIS scale specialist.

(b) When tested by the department or by USDA, GIPSA, FGIS, a seal must be placed on the scales. This seal must be dated and must indicate approval or rejection.

(c) When scales are tested, copies of the test report must be:

(i) Forwarded to USDA, GIPSA, FGIS;

(ii) Maintained by the department; and

(iii) Maintained at the facility where the scale is located.

(4) The scale authorization fee is assessed in one-half hour increments.

[Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration. 05-11-058, § 16-240-044, filed 5/17/05, effective 6/17/05.]

WAC 16-240-046 Straight time rate. The straight time rate is assessed as cited below.

(1) An hourly fee is specified in the schedule of fees.

(2) No other fee is established in the schedule of fees.

(3) The revenue minimum under WAC 16-240-038 applies.

(4) The revenue minimum required for staffing at export locations determined on a daily or monthly basis under WAC 16-240-038 applies.

(5) No contractual agreement supersedes the straight time rate.

(6) Straight time is assessed in one-half hour increments.

[Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration. 05-11-058, § 16-240-046, filed 5/17/05, effective 6/17/05.]

WAC 16-240-048 Rates for working outside established business hours (overtime). In addition to regular inspection and weighing fees and any applicable hourly fees, the department will charge the overtime rate per hour, per employee, including applicable supervisory and clerical employee hours, when a service is requested:

(1) Anytime on Saturdays, Sundays, or holidays.

(2) Before or after regularly scheduled office hours, Monday through Friday.

(3) During established meal periods on any shift.

(4) For services requested at unstaffed export locations.

(5) Overtime is assessed in one-half hour increments.

[Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration. 05-11-058, § 16-240-048, filed 5/17/05, effective 6/17/05.]

WAC 16-240-050 Calculating travel time, mileage and per diem. The rules for assessing travel time, mileage, and per diem are as follows:

(1) Travel time: When department personnel perform services at locations other than service points, the applicant, in addition to the fee for the service performed, must pay the department for travel time as follows:

(a) Travel time for each department employee from the established service location to the inspection point and return at the hourly rates in effect at the time the service is performed; except

(b) Travel time for scale authorization is charged from the scale specialist's location to the scale location and return at the hourly scale authorization rate shown in WAC 16-240-060, USGSA—AMA—WSDA Table 1.

(2) Mileage: Mileage will be assessed to inspection locations beyond ten miles from a service point location. Mileage will be assessed from the service point location to the inspection point and return.

(a) For scale authorization services on scales located beyond ten miles from the scale specialist's location, mileage

will be assessed from the scale specialist's location to the scale location and return.

(b) Mileage will be prorated among applicants when multiple service stops can be scheduled during a single service trip.

(c) The mileage rate is assessed according to the state of Washington office of financial management private vehicle mileage reimbursement rate in effect at the time the service is performed.

(3) Per diem: Per diem may be assessed when an employee is required to travel to provide services. The charge will be at the rate established by the state of Washington office of financial management that is in effect at the time the service is performed.

[Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration. 05-11-058, § 16-240-050, filed 5/17/05, effective 6/17/05.]

WAC 16-240-052 Fees for stowage examination. (1) The following rules apply for fees for stowage examination services on vessels or ocean-going barges.

(a) At anchor stowage examination services will be conducted at the convenience of the designated grain inspection office during daylight hours under safe working and weather conditions.

(b) The applicant is responsible for securing licensed tug or water taxi to provide safe transportation to and from the anchor point.

(c) Two vessel or ship's agent representatives will accompany each WSDA inspector performing stowage examination services.

(d) In addition to the fee in USGSA Table 7, the department may assess, as applicable, the following fees:

■ WAC 16-240-048 (rates outside of established business hours);

■ WAC 16-240-050 (travel, mileage beyond ten miles, per diem);

■ WAC 16-240-054 (service cancellation fee).

(2) The following rules apply for fees for other stowage examination services:

(a) Fees for stowage examination services will not be assessed when official sampling and inspection occurs at the time of loading or when official check loading is performed, unless the applicant requests an official stowage examination certificate.

(b) The stowage examination requirement associated with service at the time of loading may be waived in accordance with GIPSA, FGIS Directive 9020.1, available from United States Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Federal Grain Inspection Service.

(c) The applicant is responsible for assuring stowage space is readily accessible to inspection personnel.

[Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration. 05-11-058, § 16-240-052, filed 5/17/05, effective 6/17/05.]

WAC 16-240-054 Service cancellation fee. A service cancellation fee applies when service is requested and then canceled or not performed.

(1) When a service is requested before or after the inspection office's established hours, a cancellation fee would apply as follows:

(a) When a service is requested before or after an office's standard Monday through Friday shifts, or anytime on Saturdays, Sundays, or holidays; and

(b) The requested service is canceled after 2:00 p.m. of the last business day before the requested service; then

(c) A service cancellation fee will be assessed per employee scheduled.

(2) At locations where monthly averaging has been instituted, a cancellation fee would apply as follows:

(a) A request for service must be filed by 2:00 p.m. on the last business day before service to guarantee full staffing at the service location;

(b) When full staff at the location is requested and then canceled or services are not actually performed through no fault of the department; then

(c) The service cancellation fee will be assessed per employee scheduled.

(3) When service is requested for a vessel inspection, a cancellation fee would apply as follows:

(a) When a vessel inspection is requested and then canceled after 2:00 p.m. of the last business day before the requested service, a cancellation fee will apply.

(b) The service cancellation fee will be assessed per employee scheduled to inspect the vessel.

[Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration. 05-11-058, § 16-240-054, filed 5/17/05, effective 6/17/05.]

WAC 16-240-060 WSDA grain program fees for service. USGSA—AMA—WSDA Table 1 contains fees for GIPSA, FGIS scale authorization, straight-time hourly rate, overtime hourly rate, and service cancellation fees for services performed under the United States Grain Standards Act, the Agricultural Marketing Act of 1946, and Washington state rule.

**USGSA—AMA—WSDA Table 1
WSDA Grain Program Fees for Service**

1.	Scale authorization fee, per hour, per employee	\$50.00
2.	Straight-time rate, rate per hour, per employee	\$30.00
3.	Overtime rate, per hour, per employee	\$15.00
4.	Service cancellation fee, per employee	\$150.00

[Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration. 05-11-058, § 16-240-060, filed 5/17/05, effective 6/17/05.]

WAC 16-240-070 Fees for services under the United States Grain Standards Act. (1) USGSA Tables 1 through 7 in this section contain fees for official sampling and/or inspection and/or weighing services and fees for other associated services under the United States Grain Standards Act

(USGSA). Services available include inspection, sampling, testing, weighing, laboratory analysis, and certification.

(2) Fees that are not specifically cited in WAC for services under the United States Grain Standards Act are described below.

(a) Fees for other services under the United States Grain Standards Act not specifically cited in WAC 16-240-070 are provided at the rates contained in WAC 16-240-080 or 16-240-090 and/or at the published rates of the laboratory or organization providing the official service or analysis.

(b) An applicant may be required to provide the necessary supplies and equipment when requesting a new or special type of analysis.

USGSA Table 1

Fees for Combination Inspection and Weighing Services

1.	In, out, or local, per metric ton	\$0.150
2.	Vessels (export and domestic ocean-going)	
a.	First 2,500,000 metric tons per fiscal year, per metric ton	\$0.200
b.	From 2,500,001 to 4,000,000 metric tons per fiscal year, per metric ton	\$0.150
c.	From 4,000,001 to 5,500,000 metric tons per fiscal year, per metric ton	\$0.100
d.	Over 5,500,000 metric tons per fiscal year, per metric ton	\$0.050
Note: For vessels (export and domestic ocean-going):		
■ The vessel tonnage assessment is applied in full lot increments and is reset at the beginning of each fiscal year. The fiscal year begins July 1 and ends the following June 30.		
■ The metric ton vessel rate includes all additional factor inspection services required by the load order. All other additional factor inspection services in USGSA Table 1 are charged at the per factor fee.		
■ During vessel loading, assessments for other tests, such as protein analysis, falling number determinations, or mycotoxin analysis will be assessed at the per unit rates included in this fee schedule.		
3.	Trucks or containers, per truck or container	\$22.00
4.	Additional nongrade determining factor analysis, per factor	\$3.00

USGSA Table 2

Fees for Official Sampling and Inspection Without Weighing Services

1.	Original or new sample reinspection trucks or containers sampled by approved grain probe, including factor only or sampling only services, per truck or container 1	\$17.00
2.	Railcars sampled by USDA approved mechanical sampler, including factor only or sampling only services, per railcar 1, 2	\$17.00
3.	Original or new sample reinspection railcars sampled by USDA approved grain probe, applicant assisted, including factor only or sampling only services, per railcar 1, 2	\$17.00

4.	Original or new sample reinspection railcars sampled by USDA approved grain probe, including factor only or sampling only services, per railcar 1, 2	\$26.50
1	<ul style="list-style-type: none"> ■ For barley, determining and certifying of dockage to tenths is included in the fees in USGSA Table 2. ■ Analysis that requires additional equipment or personnel will be provided at the hourly rate. Examples are special grades, such as the determination of waxy corn, or criteria analysis, such as stress cracks in corn or seed sizing in soybeans. 	
2	The per railcar rate applies to each railcar included in a batch grade. A batch grade is two or more cars that are combined, at the applicant's request, for a single grade.	
5.	Additional nongrade determining factor analysis, per factor	\$3.00

USGSA Table 3

Fees for Official Class X Weighing Services Without an Inspection of Bulk Grain

1.	In, out, or local, per metric ton	\$0.130
2.	Trucks or containers, per weight lot	\$15.00

USGSA Table 4

Fees for Inspection of Submitted Samples, Fees for Reinspections Based on Official File Samples and Fees for Additional Factors

1.	Submitted samples, including factor-only inspections, per inspection 1, 2	\$9.00
2.	Reinspections based on official file sample, including factor-only reinspections, per inspection 1, 2	\$9.00
3.	Additional, nongrade determining factor analysis, per factor 2	\$3.00
1	<ul style="list-style-type: none"> ■ When submitted samples are not of sufficient size to allow for official grade analysis, obtainable factors may be provided, upon request of the applicant, at the submitted sample rates shown above. ■ For barley, determining and certifying of dockage to tenths is included in the fees in USGSA Table 4. 	
2	Analysis that requires additional equipment or personnel will be provided at the hourly rate. Examples are special grades, such as the determination of waxy corn, or criteria analysis, such as stress cracks in corn or seed sizing in soybeans.	

USGSA Table 5

Fees for Official Analysis for Protein, Oil, or Other Official Constituents

Original or reinspection based on file sample, per test	\$7.00
Note: The following applies to the fee in USGSA Table 5:	
<ul style="list-style-type: none"> ■ When a reinspection service includes a request for a new sample, the appropriate sampling fee will also be assessed. 	

- Results for multiple criteria achieved in a single testing operation are provided at the single test rate unless certificated separately.

USGSA Table 6**Fees for Testing for the Presence of Mycotoxins Using USDA Approved Methods**

Original, reinspection based on official file sample, or submitted sample, per test	\$37.50
Note:	
■ When a reinspection service includes a request for a new sample, the appropriate sampling fee to obtain the sample will be assessed in addition to the per test fee shown earlier (see WAC 16-240-070, USGSA Table 2).	

USGSA Table 7**Fees for Stowage Examination Services on Vessels or Ocean-Going Barges and Fees for Other Stowage Examination Services**

1. Vessels or ocean-going barges stowage examination, original or reinspection, per request	\$300.00
2. Other stowage examinations of railcars, trucks, trailers, or containers, original or reinspection, per inspection	\$9.00

[Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration. 05-11-058, § 16-240-070, filed 5/17/05, effective 6/17/05.]

WAC 16-240-080 Fees for services under the Agricultural Marketing Act of 1946. (1) AMA Tables 1 through 5 in this section contain official sampling and/or inspection and/or weighing services and fees for other services under the Agricultural Marketing Act of 1946 (AMA). Services available include inspection, sampling, testing, weighing, laboratory analysis, and certification.

(2) Fees that are not specifically cited in WAC for services under the Agricultural Marketing Act of 1946 are described below.

(a) Fees for other services under the Agricultural Marketing Act of 1946 not contained in WAC 16-240-080 are contained in WAC 16-240-070 or 16-240-090 and/or at the published rates of the laboratory or organization providing the official service or analysis.

(b) An applicant may be required to provide the necessary supplies and/or equipment when requesting a new or special type of analysis.

AMA Table 1**Fees for Combination Sampling, Inspection and Weighing Services, and Additional Factors**

1. In, out, or local, per metric ton 1, 2	\$0.150
2. Vessels (export or domestic), per metric ton 1, 3, 4	\$0.200
3. Trucks or containers, per truck or container 1, 2	\$30.00
4. Additional, nongrade determining factor analysis, per factor 1	\$3.00

- 1 The rates in the above section also apply to services provided under federal criteria inspection instructions, state established standards, and/or other applicant defined criteria.
- 2 Dockage breakdown is included in the basic inspection fee.
- 3 The metric ton vessel rate includes all additional factor inspection services required by the load order. All other additional factor inspection services in AMA Table 1 are charged at the per factor fee.
- 4 Assessments for other tests, such as mycotoxin analysis, provided during vessel loading will be assessed at the per unit rates included in this fee schedule.

AMA Table 2**Fees for Official Sampling and Inspection Without Weighing Services, and Additional Factors**

1. Trucks, containers, or tote lots, sampled by USDA approved grain probe, including factor only or sampling only services, per truck, container, or tote lot	\$30.00
2. Railcars sampled by USDA approved mechanical samplers, including factor only or sampling only services, per railcar	\$30.00
3. Railcars sampled by USDA approved grain probe, including factor only or sampling only services, per railcar	\$30.00
4. Inspection of bagged commodities, including factor only or sampling only services, per hundredweight (cwt)	\$0.080
5. Additional, nongrade determining factor analysis, per factor	\$3.00

Note: The following applies to all fees in this table:

- Dockage breakdown is included in the basic inspection fee.
- Analysis for special grade requirements or criteria analysis that requires additional equipment or personnel will be provided at the hourly rate.
- The rates shown above also apply to services provided under federal criteria inspection instructions.

AMA Table 3**Fees for Official Weighing Services without Inspections**

1. In, out, or local, per metric ton	\$0.130
2. Trucks or containers, per weight lot	\$15.00

AMA Table 4**Fees for Inspecting Submitted Samples**

1. Submitted sample, thresher run or processed, including factor-only inspections, per sample	\$19.00
2. Additional, nongrade determining factor analysis, per factor	\$3.00

Note: The following applies to all fees in this table:

- Dockage breakdown is included in the basic inspection fee.
- Analysis for special grade requirements or criteria analysis that requires additional equipment or personnel will be provided at the hourly rate.

- The rates shown above also apply to inspection services provided under federal criteria inspection instructions.
- When the size of a submitted sample is insufficient to perform official grade analysis, factor-only analysis is available on request of the applicant.

AMA Table 5
Fees for Miscellaneous Services

1. Falling number determinations, including liquefaction number on request, per determination	\$15.00
2. Sampling and handling of processed commodities, per hour, per employee	\$30.00
3. Laboratory analysis, at cost	At cost
Note:	
■ On request, shipping arrangements billed directly by shipper to the customer's shipping account may be coordinated by the department.	

[Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration. 05-11-058, § 16-240-080, filed 5/17/05, effective 6/17/05.]

WAC 16-240-090 Fees for other services performed by WSDA. (1) WSDA Tables 1 through 3 in this section contain fees for other services performed at the request of the applicant when no USGSA or AMA standards exist. Services available include inspection, sampling, testing, weighing, laboratory analysis, and certification.

(2) Applicant-defined analysis may be available from the department.

(a) Hourly fees for sampling and/or sample preparation may be assessed.

(b) The analysis will be provided at the established hourly rate or may be provided at the cost quoted by the laboratory or organization providing the service or analysis.

(c) Applicant may be required to provide supplies and equipment when requesting a new analysis or special service.

WSDA Table 1
Fees for Inspecting Miscellaneous Agricultural Commodities under Chapter 16-213 WAC

1. Submitted sample, per sample	\$9.00
2. Railcars, sampled by USDA approved diverter-type mechanical samplers, per car	\$17.00
3. Railcars, sampled by USDA approved grain probe, per car	\$26.50
4. Trucks or containers, sampled by USDA approved grain probe, per truck or container	\$17.00
Note: The following applies to all items in WSDA Table 1:	
■ These rates also apply to inspection services provided under applicant-specified criteria or standards other than USGSA, AMA or WSDA. For example: Millet may be inspected under state of Montana standards, upon applicant request.	

WSDA Table 2
Fees for Phytosanitary Certification

1. In conjunction with official inspection, per certificate	\$25.00
2. For phytosanitary certification only, without official inspection, add required sampling time, per hour, per employee	\$30.00

WSDA Table 3
Fees for Miscellaneous Services

1. Unofficial constituent analysis, per test	\$7.00
2. Sample pick-up fee, on department established routes, per sample	\$0.85
3. Laboratory analysis, provided at other than WSDA grain inspection program offices, per analysis	At cost

[Statutory Authority: 2003 1st sp.s. c 25 § 309(2); RCW 22.09.790, chapter 34.05 RCW and The United States Department of Agriculture has oversight of fees charged under the Federal Grain Inspection, Packers and Stockyards Administration. 05-11-058, § 16-240-090, filed 5/17/05, effective 6/17/05.]

Chapter 16-250 WAC COMMERCIAL FEED RULES

WAC

16-250-007	The Code Of Federal Regulation.
16-250-010	Commercial feed terms and definitions.
16-250-035	Format required for all commercial feed labels except customer-formula feed.
16-250-050	Guarantee requirements that apply to WAC 16-250-052 through 16-250-065.
16-250-090	Feed ingredient statement terms and recordkeeping requirements.
16-250-095	Drug and feed additive requirements.
16-250-100	Directions for use and precautionary statement requirements.
16-250-120	Adulteration of feed.
16-250-155	Tonnage fee requirements.
16-250-160	Commercial feed license application requirements.
16-250-180	Good manufacturing practices adopted.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-250-001	Effective date. [Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-001, filed 11/19/03, effective 7/1/04.] Repealed by 05-18-094, filed 9/7/05, effective 10/8/05. Statutory Authority: Chapters 15.53 and 34.05 RCW.
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WAC 16-250-007 The Code Of Federal Regulation. Throughout these rules where the Code Of Federal Regulation is referred to, the reference is to the 2002 edition.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 05-18-094, § 16-250-007, filed 9/7/05, effective 10/8/05.]

WAC 16-250-010 Commercial feed terms and definitions. Except for the specific terms and definitions contained in this section or in RCW 15.53.901, the terms and definitions used in reference to commercial feeds, in this chapter, are the official feed terms adopted by the Association of American Feed Control Officials (AAFCO) and published in the association's official publication. Throughout these rules where the Association of American Feed Control Officials (AAFCO) official publication is referred to, the reference is to the *2003 Official Publication*.

Note: A copy of the official publication is on file with the department. Copies may be purchased from AAFCO Assistant Secretary Treasurer; P.O. Box 478 Oxford, IN 47971.

(1) **"Animal wastes"** means a material composed of excreta, with or without bedding materials and/or animal drugs, collected from poultry, ruminants or other animals except humans.

(2) **"Canned"** means feed that has been processed, packaged, sealed, and sterilized for preservation in cans, pouches, or similar containers.

(3) **"Commercial feed"** means all materials or combinations of materials that are distributed or intended for distribution for use as feed or for mixing in feed, unless such materials are specifically exempted. The following commodities are exempted and are not considered "commercial feed" if they are not adulterated (see RCW 15.53.902 for a list of conditions that cause commercial feeds to be adulterated):

- Unmixed whole seeds and physically altered entire unmixed seeds when such seeds are not chemically changed.

- Raw meat, hay, loose salt, straw, stover, silage, cobs, husks, and hulls when such commodities are not ground, mixed or intermixed with other materials.

(4) **"Customer-formula feed"** means commercial feed that is a mixture of commercial feeds or feed ingredients, or both, each batch of which is manufactured according to the instructions of the final purchaser.

(5) **"Department"** means the Washington state department of agriculture (WSDA).

(6) **"Director"** means the director of the Washington state department of agriculture or the director's designee.

(7) **"Distressed pet food"** means pet food (dog and cat) in distribution that is no longer available for retail sale. Examples of distressed pet food include, but are not limited to, dented cans, torn bags, or pet food past its sell-by date.

(8) **"Distressed specialty pet food"** means specialty pet food in distribution that is no longer available for retail sale. Examples of distressed specialty pet food include, but are not limited to, dented cans, torn bags, or specialty pet food past its sell-by date.

(9) **"Distribute"** means to:

- (a) Offer for sale, sell, exchange or barter, commercial feed; or

- (b) Supply, furnish, or otherwise provide commercial feed to a contract feeder.

(10) **"Distributor"** means a person who distributes.

(11) **"Drug"** means:

- (a) Any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man; and

- (b) Articles other than feed intended to affect the structure or any function of the animal body.

(12) **"Enzyme"** means a protein made up of amino acids or their derivatives, which catalyses a defined chemical reaction. Required cofactors should be considered an integral part of the enzyme.

(13) **"Facility"** means any place where a commercial feed is manufactured, repackaged, sold, transloaded, or stored for later distribution.

(14) **"Feed ingredient"** means each of the constituent materials making up a commercial feed.

(15) **"Grain mixture feed"** means mixed or intermixed whole or physically altered grains, that:

- (a) Are not chemically altered;

- (b) May or may not contain molasses; and

- (c) Except for molasses, contain no other additives.

(16) **"Guarantee"** means a listing of specified nutrients or nonnutritive substances contained in a commercial feed that the manufacturer or distributor named on the feed label warrants as specified in these rules.

(17) **"Guaranteed analysis"** means a listing of the minimum, maximum or both minimum and maximum concentrations of specified nutrients contained in a commercial feed that the manufacturer or distributor named on the feed label warrants. Both minimum and maximum concentrations of specified nutrients contained in a commercial feed are stated on an "as is" basis rather than on a "one hundred percent moisture free" basis in units specified by these rules.

(18) **"Initial distributor"** means a person who first distributes a commercial feed in or into Washington state.

(19) **"Ingredient statement"** means a contiguous listing on the label of all ingredients of which the commercial feed is composed.

(20) **"Label"** means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a bulk commercial feed is distributed.

(21) **"Labeling"** means all labels and other written, printed, or graphic matter:

- (a) Upon a commercial feed or any of its containers or wrappers; or

- (b) Accompanying such commercial feed.

(22) **"Lot identifier"** means a unique identifier for each lot, batch or production run that enables the manufacturer to accurately trace the complete manufacturing and distribution history of the product. A lot identifier is an individual lot, batch or production run number, code, date, or other suitable identification applied to the label, container, or package. In the case of bulk feed the lot identifier is on a label, invoice, or shipping document accompanying the feed.

(23) **"Net weight"** means the weight of a commodity excluding any materials, substances, or items not considered to be part of the commodity. Examples of materials, substances, or items not considered to be part of a commodity include, but are not limited to, containers, conveyances, bags, wrappers, packaging materials, labels, individual piece coverings, decorative accompaniments, and coupons. (See RCW 19.94.010 (1)(i).)

(24) **"Nutritionally adequate"** means the feed, when fed according to directions on the label, will meet the nutritional requirements of the class of animals for which the feed was manufactured.

(25) **"Nutritionally suitable"** means nutritionally adequate.

(26) **"Person"** means an individual, firm, partnership, corporation, or association.

(27) **"Pet food"** means a commercial feed prepared and distributed for consumption by domesticated dogs or cats.

(28) **"Principal display panel"** means the part of a label that is most likely to be displayed, presented, shown or examined under normal and customary conditions of display for retail sale.

(29) **"Prohibited mammalian protein"** means any protein-containing portion of mammalian animals, excluding:

- Blood and blood products;
- Gelatin;
- Inspected meat products that have been cooked and offered for human food and further heat processed for feed (such as plate waste and used cellulose food casings);
- Milk products (milk and milk proteins); and
- Products whose only mammalian protein is porcine or equine protein.

(30) **"Processed,"** as applied to animal waste, means thermally dehydrated, dry-stacked, ensiled, oxidized, chemically treated, microbiologically digested, chemically or physically fractionated, or treated by other processes that enable an animal waste product to comply with the standards established in this chapter.

(31) **"Quantity statement"** means the part of the label expressing net weight (mass), net volume (liquid or dry) or count.

(32) **"Repackage"** means taking commercial feed from packages (no larger than one hundred pounds for dry feed or fifty-five gallons for liquid feed) and placing it into smaller packages for resale.

(33) **"Salvage pet food"** means pet food (dog and cat food) still under control of the original manufacturer and will not be offered for sale at retail. Examples include, but are not limited to, start-up and over-run product, unpelletted pet food, pet food fines, and other products not suitable for packaging for retail sale.

(34) **"Salvage specialty pet food"** means specialty pet food still under control of the original manufacturer and will not be offered for sale at retail. Examples include, but are not limited to, start-up and over-run product, unpelletted specialty pet food, specialty pet food fines, and other products not suitable for packaging for retail sale.

(35) **"Sell"** or **"sale"** includes exchange.

(36) **"Specialty pet"** means a domesticated animal pet normally maintained in a cage or tank, such as, but not limited to, gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes, and turtles.

(37) **"Specialty pet food"** means a commercial feed prepared and distributed for consumption by specialty pets.

(38) **"Transload"** means to transfer commercial feed from one carrier to another carrier without processing or blending the ingredients. For example, transferred from rail cars to trucks or shipping containers.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 05-18-094, § 16-250-010, filed 9/7/05, effective 10/8/05; 03-23-128, § 16-250-010, filed 11/19/03, effective 7/1/04.]

WAC 16-250-035 Format required for all commercial feed labels except customer-formula feed. (1)(a) The following label information must appear in its entirety, in the following order, on one side of the label or container of all commercial feed except customer-formula feed:

- (i) Product name and brand name, if any;
- (ii) Drug used, if any drug is used;
- (iii) Purpose of feed statement;
- (iv) Guaranteed analysis;
- (v) Feed ingredients;
- (vi) Directions for use and precautionary statements or reference to their location if they appear elsewhere on the label;

- (vii) Name and principal mailing address of the manufacturer or person responsible for distributing the feed; and
- (viii) Quantity statement.

(b) A lot identifier must appear on the label of all commercial feed, but may be in a different location than the information required by (a) of this subsection.

(2)(a) If a reference to the location of the directions for use and precautionary statements is made on the principal label, the directions for use and precautionary statements must be displayed in a prominent place on the label or container but not necessarily on the same side as the information required in subsection (1)(a) of this section.

(b) When directions for use or precautionary statements are placed on a different side of the label or container than the information required in subsection (1)(a) of this section, there must be a statement on the same side of the label or container that the information required in subsection (1)(a) of this section is printed such as "see back of label for directions for use."

(3) When the Bovine Spongiform Encephalopathy precautionary statement "do not feed to cattle or other ruminants" is required by 21 CFR, Part 589.2000, it must appear in a prominent place on the label.

Note: A copy of 21 CFR, Part 589.2000 is available from the department. It is also available on the internet at <http://www.gpoaccess.gov/cfr/retrieve.html>.

(4) The information required in WAC 16-250-030 must not be subordinated or obscured by other statements or designs.

(5) Printed or written material or design (for example, pictures of animals or birds) of any kind must not be attached to, appear on, or distributed with commercial feed if the material or design is misleading, incorrect, or at variance in any respect with the information required on the label.

(6)(a) Statements referring to a competitive product or comparing the properties of a packaged feed to those of a competitive product must not appear on a label unless the competitive product is specifically identified.

(b) Negative statements regarding a competitive product must not appear on a label unless the director determines that the information provided by the statements is beneficial to the product's purchaser.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 05-18-094, § 16-250-035, filed 9/7/05, effective 10/8/05; 03-23-128, § 16-250-035, filed 11/19/03, effective 7/1/04.]

WAC 16-250-050 Guarantee requirements that apply to WAC 16-250-052 through 16-250-065.

Note: **"Guarantee"** means a listing of specified nutrients or non-nutritive substances contained in a commercial feed that the manufacturer or distributor named on the feed label warrants as specified in these rules. See WAC 16-250-010(16).

The requirements in subsections (1) through (4) of this section apply to WAC 16-250-052 through 16-250-065.

(1) Complete feeds and feeds intended to be mixed with grain to produce complete feed for the following animal classes and/or species always require a mineral guarantee:

- (a) Swine;
- (b) Poultry;
- (c) Fish; and
- (d) Veal and herd milk replacers.

(2) When stated on a commercial feed label, nutritional guarantees must be listed in the following order:

- (a) Crude protein;
- (b) Crude protein from nonprotein nitrogen;
- (c) Amino acids;
- (d) Crude fat;
- (e) Crude fiber;
- (f) Acid detergent fiber;
- (g) Calcium;
- (h) Phosphorus;
- (i) Salt;
- (j) Sodium.

(3) Other required and/or voluntary guarantees should follow those listed in subsection (2) of this section grouped by the unit (percentage, parts per million, International Units, etc.) of measure used to express the guarantees. For example, all guarantees measured by parts per million should be grouped together.

(4) The use of commercial, copyrighted brand, or trade names in the guarantees statement is prohibited.

(5) The following requirements apply to WAC 16-250-052 through 16-250-063:

(a) Commercial feed must be labeled for the animal class or classes for which it is intended.

(b) Commercial feed must also be nutritionally suitable for each and every class for which it is labeled.

(c) WAC 16-250-052 through 16-250-063 contains a series of animal class tables. When a manufacturer uses the class terms in the tables, the feed must be suitable for the class as defined in the table.

(d) Instead of the class terms used in the tables, a manufacturer may use more specific and common language to describe animal classes, especially when describing attributes such as the weight range, sex, or age of the animal for which the feed is manufactured.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 05-18-094, § 16-250-050, filed 9/7/05, effective 10/8/05; 03-23-128, § 16-250-050, filed 11/19/03, effective 7/1/04.]

WAC 16-250-090 Feed ingredient statement terms and recordkeeping requirements. Feed ingredients listed on the label or on file at the plant producing the product must comply with the following:

(1) The name of each ingredient must conform to one of the following:

(a) Ingredients must have an official definition in the AAFCO official publication;

(b) If there is no official definition for an ingredient in the AAFCO official publication, then an ingredient with an AAFCO tentative definition may be used;

(c) The ingredient is defined in WAC 16-250-015; or

(d) The ingredient has a commonly accepted name that requires no definition, for example, sugar.

(2) Collective terms for the grouping of feed ingredients must be those defined in the Association of American Feed Control Officials official publication. However, when a collective term for a group of ingredients is used on a label:

(a) Individual ingredients within that group must not be listed on the label; and

(b) When requested the manufacturer must give the department a list of individual ingredients, within a defined

group, that are or have been used at manufacturing facilities distributing the commercial feed in Washington state. These records must be available to the department for inspection and copying for at least one year after the last date of distribution of the commercial feed.

(3) Ingredients on labels must be listed in descending order by weight.

(4) The specific amount of each ingredient does not need to be listed on the label.

(5) A single ingredient product, as defined by the Association of American Feed Control Officials official publication, does not need an ingredient statement.

(6) The names of all listed ingredients must be shown in the same size of letters and type.

(7) Commercial, copyrighted, brand, or trade names must not be used in the ingredient statement.

(8) No reference to quality or grade of an ingredient may appear in the ingredient statement.

(9) The term "dehydrated" may precede the name of any product that has been artificially dried.

(10) When the word "iodized" is used in connection with a feed ingredient, the ingredient must contain at least 0.007% iodine, uniformly distributed.

(11) The term "degermed" must precede the name of any product from which germs were wholly or partially removed.

(12) If a drug is used, the drug does not have to be listed in the ingredient statement. However, the drug name is required to be listed on the label (see WAC 16-250-030 and 16-250-035).

(13) Unless meat and meat by-products are made from cattle, swine, sheep or goats, the terms "meat" and "meat by-products" must specifically identify the animal from which they are derived.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 05-18-094, § 16-250-090, filed 9/7/05, effective 10/8/05; 03-23-128, § 16-250-090, filed 11/19/03, effective 7/1/04.]

WAC 16-250-095 Drug and feed additive requirements. Before the department approves a label for commercial feed that contains additives (including drugs, other special purpose additives, or nonnutritive additives), the distributor may be required to submit evidence satisfactory to the department proving the safety and effectiveness of the commercial feed when used according to the directions on the label.

Satisfactory evidence of the safety and effectiveness of a commercial feed that contains additives (including drugs, other special purpose additives, or nonnutritive additives) is established if one or more of the following apply:

(1) When the use of a commercial feed containing such additives either:

(a) Conforms to the requirements of the applicable regulation in 21 CFR; or

(b) Are "prior sanctioned"; or

(c) Are "informal review sanctioned"; or

(d) "Generally recognized as safe" (GRAS) for such use.

(2) When the commercial feed is itself a drug, and

(a) Is generally recognized as safe (GRAS) and effective for the labeled use; or

(b) Is marketed subject to an application approved by the Food and Drug Administration under 21 U.S.C. 360b as amended effective on the date these rules were adopted.

(3) When one purpose for feeding a commercial feed is to immunize through some immunological process and the immunizing drugs or additives have been approved for the purpose through the Federal Virus, Serum and Toxins Act of 1913, as amended in 1985 (21 U.S.C. 151 et seq.).

(4) When the commercial feed is a directly fed microbial product and the:

(a) Product meets the particular fermentation product definition as defined in the Association of American Feed Control Officials official publication; and

(b) Required microbial content statement in the label is limited to the following: "Contains a source of live (viable) naturally occurring microorganisms"; and

(c) Source is stated with a corresponding guarantee expressed according to WAC 16-250-076 requirements.

(5) When the commercial feed is an enzyme product and the:

(a) Product meets the particular enzyme definition in the Association of American Feed Control Officials official publication; and

(b) Enzyme is stated with a corresponding guarantee expressed according to WAC 16-250-076 requirements.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 05-18-094, § 16-250-095, filed 9/7/05, effective 10/8/05; 03-23-128, § 16-250-095, filed 11/19/03, effective 7/1/04.]

WAC 16-250-100 Directions for use and precautionary statement requirements. (1) Directions for use and precautionary statements on the required labeling of all commercial feeds containing additives, (including, but not limited to, prohibited mammalian protein, drugs, nonprotein nitrogen, special purpose additives, or nonnutritive additives) must:

(a) Be adequate to enable users with no special knowledge of the purpose and use of the feed to use it safely and effectively for its intended purposes; and

(b) Include all information described by all applicable regulations of 21 CFR, Parts 500-599 under the Federal Food, Drug and Cosmetic Act.

Note: The Food and Drug Administration's regulations are published in the Code of Federal Regulations, and are available in book format from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. They are also available on the internet at <http://www.gpoaccess.gov/cfr/retrieve.html>. A copy of 21 CFR Parts 500-599 is also on file with the department.

(2) Feeds containing nonprotein nitrogen must have adequate directions for use and precautionary statements as specified in WAC 16-250-075.

(3) Adequate directions for use and precautionary statements identified in subsection (1) of this section are required for commercial feeds that are distributed to:

(a) Supply particular dietary needs; or

(b) For supplementing or fortifying the usual diet or ration with any vitamin, mineral, or other dietary nutrient or compound.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 05-18-094, § 16-250-100, filed 9/7/05, effective 10/8/05; 03-23-128, § 16-250-100, filed 11/19/03, effective 7/1/04.]

WAC 16-250-120 Adulteration of feed. (1) The terms "poisonous or deleterious substances" as used in RCW 15.53.902 include, but are not limited to, the following:

(a) A commercial feed or feed ingredient that contains more than twenty parts per billion aflatoxin B1, B2, G1, G2, individually or in total.

(b) Fluorine and any mineral or mineral mixture that is used directly to feed domestic animals and in which the fluorine exceeds:

Maximum Allowed Percentage of Fluorine in Minerals	Type of Animal
0.20%	Breeding and dairy cattle
0.30%	Slaughter cattle
0.30%	Sheep
0.35%	Lambs
0.45%	Swine
0.60%	Poultry

(c) Fluorine bearing ingredients when used in such amounts that they raise the fluorine content of the total ration (exclusive of roughage) above the following amounts:

Maximum Allowed Percentage of Fluorine in Ration Excluding Roughage	Type of Animal
0.004%	Breeding and dairy cattle
0.009%	Slaughter cattle
0.006%	Sheep
0.01%	Lambs
0.015%	Swine
0.03%	Poultry

(d) Fluorine bearing ingredients incorporated in any feed that is fed directly to cattle, sheep or goats consuming roughage (with or without) limited amounts of grain, that result in a daily fluorine intake in excess of 50 milligrams of fluorine per 100 pounds of body weight.

(e) Soybean meal, flakes or pellets or other vegetable meals, flakes or pellets that have been extracted with trichloroethylene or other chlorinated solvents.

(f) Sulfur dioxide, sulfurous acid, and salts of sulfurous acid when used in or on feeds or feed ingredients that are considered or reported to be a significant source of vitamin B1 (thiamine).

(g) Any substance that is prohibited by 21 CFR, Part 589.

(2) When screenings are used in a commercial feed, the labeling and screenings must comply with the requirements in WAC 16-250-110 or the commercial feed will be considered adulterated.

(3) Feed containing raw or unprocessed animal waste will be considered adulterated.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 05-18-094, § 16-250-120, filed 9/7/05, effective 10/8/05; 03-23-128, § 16-250-120, filed 11/19/03, effective 7/1/04.]

WAC 16-250-155 Tonnage fee requirements. Each initial distributor of commercial feed in or into Washington state must pay the department an inspection fee of twelve

cents per ton on all commercial feed they sold during the year. The minimum inspection fee, the late fee, and exceptions to payment of the fee are as authorized in RCW 15.53.9018.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 05-18-094, § 16-250-155, filed 9/7/05, effective 10/8/05. Statutory Authority: Chapter 15.53 RCW, 2003 1st sp.s. c 25, and chapter 34.05 RCW. 04-14-076, § 16-250-155, filed 7/6/04, effective 1/1/05. Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-128, § 16-250-155, filed 11/19/03, effective 7/1/04.]

WAC 16-250-160 Commercial feed license application requirements. (1) The commercial feed license application form, to be completed by applicants and licensees, must include:

- (a) The company name and mailing address of the applicant;
- (b) The physical address of the facility;
- (c) The name, contact information, and signature of the applicant;
- (d) Information regarding the types of business the firm is engaged in (feed manufacturer, dealer, broker); and
- (e) The type of commercial feed distributed (medicated feed, complete feed, feed supplement, or animal by-products).

(2) A commercial feed license is not required for facilities that only:

- (a) Sell food processing by-products from fruit, vegetable, or potato processing plants, freezing or dehydrating facilities, or juice or jelly preserving plants;
- (b) Sell bona fide experimental feed on which accurate records and experimental programs are maintained;
- (c) Makes retail sales of bagged, or packaged commercial feed bearing labeling or other approved indicators showing that the commercial feed is from a licensed manufacturer, guarantor, or distributor who has assumed full responsibility for the required tonnage inspection fees.

Note: The commercial feed license application form is available from the department. This form may also be downloaded from the internet at <http://agr.wa.gov/FoodAnimal/Animal-Feed/Forms.htm>.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 05-18-094, § 16-250-160, filed 9/7/05, effective 10/8/05; 03-23-128, § 16-250-160, filed 11/19/03, effective 7/1/04.]

WAC 16-250-180 Good manufacturing practices adopted. The following good manufacturing practices are adopted:

- (1) Regulations prescribing current good manufacturing practices for Type B and Type C medicated feeds as published in 21 CFR, Part 225, Sections 225.1 - 225.202.
- (2) Regulations prescribing good manufacturing practices for Type A Medicated Articles as published in 21 CFR, Part 226, Sections 226.1 - 226.115.
- (3) Regulations pertaining to animal proteins prohibited in ruminant feed as published in 21 CFR, Part 589.2000, even if interstate commerce is not involved.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 05-18-094, § 16-250-180, filed 9/7/05, effective 10/8/05; 03-23-128, § 16-250-180, filed 11/19/03, effective 7/1/04.]

Chapter 16-252 WAC

COMMERCIAL FEED RULES—PET FOOD AND SPECIALTY PET FOOD

WAC

16-252-007	The Code Of Federal Regulation.
16-252-010	Commercial feed terms and definitions.
16-252-095	Drug and feed additive requirements.
16-252-100	"Directions for use" and "precautionary statement" requirements.
16-252-120	Adulteration of pet food and specialty pet food.
16-252-155	Tonnage fee required.
16-252-165	Registration requirements.
16-252-180	Good manufacturing practices adopted.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-252-001	Effective date. [Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-001, filed 11/19/03, effective 7/1/04.] Repealed by 05-18-093, filed 9/7/05, effective 10/8/05. Statutory Authority: Chapters 15.53 and 34.05 RCW.
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WAC 16-252-007 The Code Of Federal Regulation. Throughout these rules where the Code Of Federal Regulation is referred to, the reference is to the 2002 edition.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 05-18-093, § 16-252-007, filed 9/7/05, effective 10/8/05.]

WAC 16-252-010 Commercial feed terms and definitions. Except for the specific terms and definitions contained in this section or in RCW 15.53.901, the terms and definitions used in reference to commercial feeds, in this chapter, are the official feed terms adopted by the Association of American Feed Control Officials (AAFCO) and published in the association's official publication. Throughout these rules where the Association of American Feed Control Officials (AAFCO) official publication is referred to, the reference is to the 2003 Official Publication.

Note: A copy of the official publication is on file with the department. Copies may be purchased from AAFCO Assistant Secretary-Treasurer, P.O. Box 478 Oxford, IN 47971.

(1) **"Animal wastes"** means a material composed of excreta, with or without bedding materials and/or animal drugs, collected from poultry, ruminants or other animals except humans.

(2) **"All life stages"** means gestation/lactation, growth, and adult maintenance life stages of a domesticated dog or cat.

(3) **"Canned"** means feed that has been processed, packaged, sealed, and sterilized for preservation in cans, pouches, or similar containers.

(4) **"Commercial feed"** means all materials or combination of materials that are distributed or intended for distribution for use as feed or for mixing in feed, unless such materials are specifically exempted.

The following commodities are exempted and are not considered "commercial feed" if they are not adulterated (see RCW 15.53.902 for a list of conditions that cause commercial feeds to be adulterated):

- Unmixed whole seeds and physically altered entire unmixed seeds when such seeds are not chemically changed.
- Raw meat, hay, loose salt, straw, stover, silage, cobs, husks, and hulls when such commodities are not ground, mixed or intermixed with other materials.

(5) **"Customer-formula feed"** means commercial feed that is a mixture of commercial feeds or feed ingredients, or both, each batch of which is manufactured according to the instructions of the final purchaser.

(6) **"Department"** means the Washington state department of agriculture or the director's designee.

(7) **"Director"** means the director of the Washington state department of agriculture or the director's designee.

(8) **"Distressed pet food"** means pet food (dog and cat) in distribution that is no longer available for retail sale. Examples of distressed pet food include, but are not limited to, dented cans, torn bags, or pet food past its sell-by date.

(9) **"Distressed specialty pet food"** means specialty pet food in distribution that is no longer available for retail sale. Examples of distressed specialty pet food include, but are not limited to, dented cans, torn bags, or specialty pet food past its sell-by date.

(10) **"Distribute"** means to:

(a) Offer for sale, sell, exchange or barter, commercial feed; or

(b) Supply, furnish, or otherwise provide commercial feed to a contract feeder.

(11) **"Distributor"** means a person who distributes.

(12) **"Drug"** means:

(a) Any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man; and

(b) Articles other than feed intended to affect the structure or any function of the animal body.

(13) **"Enzyme"** means a protein made up of amino acids or their derivatives, which catalyses a defined chemical reaction. Required cofactors should be considered an integral part of the enzyme.

(14) **"Facility"** means any place where a commercial feed is manufactured, repackaged, sold, transloaded, or stored for later distribution.

(15) **"Family"** means a group of pet food products, which are nutritionally adequate for any or all life stages based on their nutritional similarity to a lead product, which has been successfully test-fed according to an AAFCO feeding protocol(s).

(16) **"Feed ingredient"** means each of the constituent materials making up a commercial feed.

(17) **"Grain mixture specialty pet food"** means mixed or intermixed whole or physically altered grains, that:

(a) Are not chemically altered;

(b) May or may not contain molasses; and

(c) Except for molasses, contain no other additives.

(18) **"Guarantee"** means a listing of specified nutrients or nonnutritive substances contained in a commercial feed that the manufacturer or distributor named on the feed label warrants as specified in these rules.

(19) **"Guaranteed analysis"** means a listing of the minimum, maximum or both minimum and maximum concentrations of specified nutrients contained in a commercial feed that the manufacturer or distributor named on the feed label warrants. Both minimum and maximum concentrations of specified nutrients contained in a commercial feed are stated on an "as is" basis rather than on a "one hundred percent moisture free" basis in units specified by these rules.

(20) **"Initial distributor"** means a person who first distributes a commercial feed in or into Washington state.

(21) **"Ingredient statement"** means a contiguous listing on the label of all ingredients of which the commercial feed is composed.

(22) **"Label"** means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a bulk commercial feed is distributed.

(23) **"Labeling"** means all labels and other written, printed, or graphic matter:

(a) Upon a commercial feed or any of its containers or wrappers; or

(b) Accompanying such commercial feed.

(24) **"Lot identifier"** means a unique identifier for each lot, batch or production run that enables the manufacturer to accurately trace the complete manufacturing and distribution history of the product. A lot identifier is an individual lot, batch or production run number, code, date, or other suitable identification applied to the label, container, or package. In the case of bulk feed, the lot identifier is on a label, invoice, or shipping document accompanying the feed.

(25) **"Net weight"** means the weight of a commodity excluding any materials, substances, or items not considered to be part of the commodity. Examples of materials, substances, or items not considered to be part of a commodity include, but are not limited to, containers, conveyances, bags, wrappers, packaging materials, labels, individual piece coverings, decorative accompaniments, and coupons. (See RCW 19.94.010 (1)(i).)

(26) **"Nutritionally adequate"** means the feed, when fed according to directions on the label, will meet the nutritional requirements of the class of animals for which the feed was manufactured.

(27) **"Nutritionally suitable"** means nutritionally adequate.

(28) **"Person"** means an individual, firm, partnership, corporation, or association.

(29) **"Pet food"** means a commercial feed prepared and distributed for consumption by domesticated dogs or cats.

(30) **"Principal display panel"** means the part of a label that is most likely to be displayed, presented, shown or examined under normal and customary conditions of display for retail sale.

(31) **"Prohibited mammalian protein"** means any protein-containing portion of mammalian animals, excluding:

- Blood and blood products;

- Gelatin;

- Inspected meat products that have been cooked and offered for human food and further heat processed for feed (such as plate waste and used cellulose food casings);

- Milk products (milk and milk proteins); and

- Products whose only mammalian protein is porcine or equine protein.

(32) **"Processed,"** as applied to animal waste, means thermally dehydrated, dry-stacked, ensiled, oxidized, chemically treated, microbiologically digested, chemically or physically fractionated, or treated by other processes that enable an animal waste product to comply with the standards established in this chapter.

(33) **"Quantity statement"** means the part of the label expressing net weight (mass), net volume (liquid or dry) or count.

(34) **"Repackage"** means taking commercial feed from packages (no larger than one hundred pounds for dry feed or fifty-five gallons for liquid feed) and placing it into smaller packages for resale.

(35) **"Salvage pet food"** means pet food (dog and cat food) still under control of the original manufacturer and will not be offered for sale at retail. Examples include, but are not limited to, start-up and over-run product, unpelleted pet food, pet food fines, and other products not suitable for packaging for retail sale.

(36) **"Salvage specialty pet food"** means specialty pet food still under control of the original manufacturer and will not be offered for sale at retail. Examples include, but are not limited to, start-up and over-run product, unpelleted specialty pet food, specialty pet food fines, and other products not suitable for packaging for retail sale.

(37) **"Sell" or "sale"** includes exchange.

(38) **"Specialty pet"** means a domesticated animal pet normally maintained in a cage or tank, such as, but not limited to, gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes, and turtles.

(39) **"Specialty pet food"** means a commercial feed prepared and distributed for consumption by specialty pets.

(40) **"Transload"** means to transfer commercial feed from one carrier to another carrier without processing or blending the ingredients. For example, transferred from rail cars to trucks or shipping containers.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 05-18-093, § 16-252-010, filed 9/7/05, effective 10/8/05; 03-23-129, § 16-252-010, filed 11/19/03, effective 7/1/04.]

WAC 16-252-095 Drug and feed additive requirements. (1) Before the department approves a registration application and/or a label for pet food or specialty pet food that contains additives (including drugs, other special purpose additives, or nonnutritive additives), the distributor may be required to submit, to the department, satisfactory evidence proving the safety and effectiveness of the pet food or specialty pet food when used according to the directions on the label.

(2) Satisfactory evidence of the safety and effectiveness of a pet food or specialty pet food that contains additives (including drugs, other special purpose additives, or nonnutritive additives) is established if one or more of the following apply:

(a) When the use of a pet food or specialty pet food containing such additives either:

(i) Conforms to the requirements of the applicable regulation in 21 CFR; or

(ii) Are "prior sanctioned"; or

(iii) Are "informal review sanctioned"; or

(iv) "Generally recognized as safe" (GRAS) for such use.

(b) When the pet food or specialty pet food is itself a drug, and is:

(i) Generally recognized as safe (GRAS) and effective for the labeled use; or

(ii) Marketed subject to an application approved by the Food and Drug Administration under 21 U.S.C. 360b as amended effective on the date these rules were adopted.

(c) When one purpose for feeding a pet food or specialty pet food is to immunize through some immunological process and the immunizing drugs or additives have been approved for the purpose through the Federal Virus, Serum and Toxins Act of 1913, as amended in 1985 (21 U.S.C. 151 et seq.).

(d) When the pet food or specialty pet food is a directly fed microbial product and the:

(i) Product meets the particular fermentation product definition as listed in the Association of American Feed Control Officials official publication; and

(ii) Required microbial content statement on the label is limited to the following: "Contains a source of live (viable) naturally occurring microorganisms"; and

(iii) Source is stated with a corresponding guarantee expressed according to WAC 16-252-076 requirements.

(e) When the pet food or specialty pet food is an enzyme product and the:

(i) Product meets the particular enzyme definition listed in the Association of American Feed Control Officials official publication; and

(ii) Enzyme is stated with a corresponding guarantee expressed according to WAC 16-252-076 requirements.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 05-18-093, § 16-252-095, filed 9/7/05, effective 10/8/05; 03-23-129, § 16-252-095, filed 11/19/03, effective 7/1/04.]

WAC 16-252-100 "Directions for use" and "precautionary statement" requirements. (1) Directions for use and precautionary statements on required labeling of all pet food and specialty pet foods containing additives (including, but not limited to, drugs, nonprotein nitrogen, special purpose additives, or nonnutritive additives) must:

(a) Be adequate to enable users with no special knowledge of the purpose and use of the feed to use it safely and effectively for its intended purposes; and

(b) Include all information described by all applicable regulations of 21 CFR, Parts 500-599 under the Federal Food, Drug and Cosmetic Act.

Note: The Food and Drug Administration's regulations are published in the Code of Federal Regulations, and are available in book format from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. They are also available on the internet at <http://www.gpoaccess.gov/cfr/retrieve.html>. A copy of 21 CFR Parts 500-599 are also on file with the department.

(2) Adequate directions for use and precautionary statements identified in subsection (1) of this section are required for pet food and specialty pet food that is distributed to:

(a) Supply particular dietary needs; or

(b) Supplement or fortify the usual diet or ration with any vitamin, mineral, or other dietary nutrient or compound.

(3)(a) When a pet food or specialty pet food is intended for use by or under the supervision of a veterinarian, the statement "use only as directed by your veterinarian" must be on the label. When such a statement is on a pet food label, feeding instructions are not required, but may appear on the label. This regulation takes precedence over other regulations in this subsection.

(b) Pet food, including snacks or treats, labeled as "complete and balanced" for any or all life stages, must list feeding directions on the label. Any pet food labeled as "snacks" or "treats" that contains a drug, must list feeding directions on the label. These directions must:

- (i) Be expressed in common terms;
- (ii) Appear prominently on the label;
- (iii) State the frequency of feeding; and
- (iv) At a minimum state, "feed (weight or other measure of product) per (weight only) of dog (or cat)."

(c) Directions must be consistent with the intended use(s) indicated in the nutritional adequacy statement, unless a limited use or more limited life stage designation is declared elsewhere (for example, "adult formula").

(d) Directions must be given for each life stage stated on the label.

(4)(a) Pet food and specialty pet food snacks and treats do not require feeding directions on the label except when they:

- (i) Are labeled as "complete and balanced"; or
 - (ii) Contain a drug.
- (b) Feeding directions may be on the label for snacks and treats even when not required.

(5) Pet food and specialty pet food labels must contain the statement "This product is intended for intermittent or supplemental feeding only," if the product does not meet the nutrient requirements of the appropriate AAFCO recognized nutrient profile, feeding protocol, or any other special nutritional or dietary need, thus making it suitable only for limited, intermittent, or supplementary feeding.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 05-18-093, § 16-252-100, filed 9/7/05, effective 10/8/05; 03-23-129, § 16-252-100, filed 11/19/03, effective 7/1/04.]

WAC 16-252-120 Adulteration of pet food and specialty pet food. (1) The terms "poisonous or deleterious substances" as used in RCW 15.53.902 include, but are not limited to, the following:

(a) Any ingredient, pet food or specialty pet food that contains more than twenty parts per billion aflatoxin B1, B2, G1, G2, individually or in total.

(b) Soybean meal, flakes or pellets or other vegetable meals, flakes or pellets that have been extracted with trichloroethylene or other chlorinated solvents.

(c) Sulfur dioxide, sulfurous acid, and salts of sulfurous acid when used in or on pet food or pet food ingredients that are considered or reported to be a significant source of vitamin B1 (thiamine).

(d) Any substance that is prohibited by 21 CFR, Part 589.

(2) When screenings are used in a pet food or specialty pet food, the screenings and the finished product must comply with the requirements in WAC 16-252-110 or the pet food will be considered adulterated.

(3) Pet food or specialty pet food containing raw or unprocessed animal waste will be considered adulterated.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 05-18-093, § 16-252-120, filed 9/7/05, effective 10/8/05; 03-23-129, § 16-252-120, filed 11/19/03, effective 7/1/04.]

WAC 16-252-155 Tonnage fee required. Each initial distributor of a pet food or specialty pet food in or into Washington state must pay the department an inspection fee of twelve cents per ton on all pet food or specialty pet food they sold, for distribution within Washington state, during the year. The minimum inspection fee, the late fee, and exceptions to payment of the fee are as authorized in RCW 15.53.9018.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 05-18-093, § 16-252-155, filed 9/7/05, effective 10/8/05. Statutory Authority: Chapter 15.53 RCW, 2003 1st sp.s. c 25, and chapter 34.05 RCW. 04-14-076, § 16-252-155, filed 7/6/04, effective 1/1/05. Statutory Authority: Chapters 15.53 and 34.05 RCW. 03-23-129, § 16-252-155, filed 11/19/03, effective 7/1/04.]

WAC 16-252-165 Registration requirements. (1) All registration applications for pet food and specialty pet food must be on forms available from the department.

(2) The application for pet food and specialty pet food registration, to be completed by applicants and registrants, must include:

- (a) The company name (registrant);
- (b) Complete business mailing address;
- (c) Complete physical address of the business, if different than the mailing address;
- (d) Telephone number;
- (e) Company name on label if different than the registrant;
- (f) Number of products sold in small packages of less than ten pounds;
- (g) Number of products sold in large packages of ten pounds or more;
- (h) Company registrar's name;
- (i) Company registrar's title;
- (j) Registrar's signature; and
- (k) Date signed.

Note: The application for registration of pet food and specialty pet food products may be downloaded from the internet at <http://agr.wa.gov/FoodAnimal/AnimalFeed/Forms.htm>.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 05-18-093, § 16-252-165, filed 9/7/05, effective 10/8/05; 03-23-129, § 16-252-165, filed 11/19/03, effective 7/1/04.]

WAC 16-252-180 Good manufacturing practices adopted. The following good manufacturing practices are adopted:

(1) Regulations prescribing current good manufacturing practices for Type B and Type C medicated feeds as published in 21 CFR, Part 225, Sections 225.1-225.202.

(2) Regulations prescribing good manufacturing practices for Type A Medicated Articles as published in 21 CFR, Part 226, Sections 226.1-226.115.

(3) Regulations pertaining to animal proteins prohibited in ruminant feed as published in 21 CFR, Part 589.2000.

[Statutory Authority: Chapters 15.53 and 34.05 RCW. 05-18-093, § 16-252-180, filed 9/7/05, effective 10/8/05; 03-23-129, § 16-252-180, filed 11/19/03, effective 7/1/04.]

Chapter 16-301 WAC

GENERAL SEED REGULATIONS

(Formerly chapters 16-300, 16-304, 16-313, 16-316, 16-317, 16-318, 16-493, 16-494 and 16-495 WAC)

WAC

16-301-050	Restricted noxious weed seeds.
16-301-490	Why is the department establishing a crucifer seed quarantine?
16-301-495	What definitions are important to understanding this chapter?
16-301-500	What crucifer articles are regulated by this chapter?
16-301-505	What diseases are regulated by this chapter?
16-301-510	What seed must undergo dormancy testing?
16-301-515	What is the quarantined area for this crucifer seed quarantine?
16-301-520	What is the regulated area for this crucifer seed quarantine?
16-301-525	What are the exemptions to the crucifer seed quarantine that apply within the regulated area?
16-301-530	What requirements apply to planting crucifer seed in the regulated area?
16-301-535	What requirements apply to boxes and racks used to ship crucifer seedlings?
16-301-540	What requirements apply to crucifer transplants grown in greenhouses in the regulated area?
16-301-545	What requirements apply to crucifer seed lots that test positive for any regulated disease?
16-301-550	If documentation verifying that crucifer seed is free from regulated diseases is not available, what protocols must be followed before the seed is planted in a regulated area?
16-301-555	How are approved trial grounds established and what rules apply to them?
16-301-560	What are the inspection requirements for trial grounds?
16-301-565	What are the testing requirements for seed harvested from an approved trial ground?
16-301-570	What are the penalties for violating the crucifer seed quarantine?
16-301-575	How are diseased crucifer seeds and infected fields identified?
16-301-580	What regulations apply to diseased crucifer seeds and infected fields?

WAC 16-301-050 Restricted noxious weed seeds.

Restricted (secondary) noxious weed seeds are the seeds of weeds which are objectionable in fields, lawns, and gardens of this state, but which can be controlled by cultural or chemical practices. Seed is deemed mislabeled if it consists of or contains any of the restricted noxious weed seeds listed below in excess of the number declared on the label. For the purpose of seed certification, see WAC 16-302-105 for the list of objectionable weeds.

ENGLISH OR COMMON NAME	BOTANICAL OR SCIENTIFIC NAME
Blackgrass	<i>Alopecurus myosuroides</i>
Black mustard	<i>Brassica nigra</i>
Blue lettuce	<i>Lactuca tatarica</i> subsp. <i>pulchella</i>
Docks and Sorrel	<i>Rumex</i> spp.
Dodder	<i>Cuscuta</i> spp.
Dyers woad	<i>Isatis tinctoria</i>
Field pennycress (fanweed)	<i>Thlaspi arvense</i>
Field sandbur	<i>Cenchrus incertus</i>
Gromwell (only in small grain)	<i>Buglossoides arvensis</i>
Halogeton	<i>Halogeton glomeratus</i> C.A. Mey.
Medusahead	<i>Taeniatherum caput-medusae</i>

ENGLISH OR
COMMON NAMEBOTANICAL OR
SCIENTIFIC NAME

Plantains	<i>Plantago</i> spp.
Poverty weed	<i>Iva axillaris</i> Pursh.
Puncturevine	<i>Tribulus terrestris</i> L.
St. Johnswort	<i>Hypericum perforatum</i> L.
Dalmation toadflax	<i>Linaria dalmatica</i> (L.) Mill.
Yellow toadflax	<i>Linaria vulgaris</i> Hill.
Western ragweed	<i>Ambrosia psilostachya</i> DC.
Wild mustard	<i>Sinapis arvensis</i> subsp. <i>arvensis</i>
Wild oat	<i>Avena fatua</i> L.
Wild radish	<i>Raphanus raphanistrum</i>

[Statutory Authority: Chapters 15.49, 17.24, and 34.05 RCW. 06-01-111, § 16-301-050, filed 12/21/05, effective 1/21/06. Statutory Authority: Chapters 15.49 and 34.05 RCW. 02-12-060, § 16-301-050, filed 5/30/02, effective 6/30/02. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 00-24-077, § 16-301-050, filed 12/4/00, effective 1/4/01.]

WAC 16-301-490 Why is the department establishing a crucifer seed quarantine? The production of crucifer vegetable seed is an important industry in Washington state. The economic well-being of that industry is threatened by the introduction of crucifer seed infected with certain bacterial and fungal pathogens. In addition, certain crucifer species produce dormant seed that, if present in a seed lot will persist into subsequent cropping years. The resulting "volunteer" plants have the potential to become established as weeds in Washington state.

The director has determined that a quarantine is needed to protect the Washington crucifer vegetable seed industry from the introduction of seed infected with certain pathogens and from the introduction of crucifer seed containing dormant seed. The quarantine will provide the seed growers in this state with sources of crucifer seed that have been tested and proven to be free from harmful pathogens and, when appropriate, dormant seed.

[Statutory Authority: Chapters 15.49, 17.24, and 34.05 RCW. 06-01-111, § 16-301-490, filed 12/21/05, effective 1/21/06.]

WAC 16-301-495 What definitions are important to understanding this chapter? Definitions for some terms in this chapter can be found in chapter 15.49 RCW and chapter 16-301 WAC. In addition, the following definitions apply to this chapter:

"Approved treatment methods" include hot water, hot chlorine or any other methods that can eliminate the presence of regulated pathogens.

"Crucifer" means all plants in the family Brassicaceae (also known as Cruciferae) and specifically includes all *Brassica* species, *Raphanus sativus* - Radish, *Sinapis alba* and other mustards.

"Crucifer production" means any planting of crucifer seed or seedlings for the purpose of producing seed, oil, commercial vegetables or cover crops.

"Crucifer seed" includes any part of a plant capable of propagation including, but not necessarily limited to, seeds, roots, and transplants.

"Department" means the Washington state department of agriculture (WSDA).

"Director" means the director of the Washington state department of agriculture or the director's designee.

"Dormant seed" means viable true seed that displays a delay in or lack of germination when provided favorable germination conditions for the type of seed in question.

"Owner" means the person having legal ownership, possession or control over a regulated article covered by this chapter including, but not limited to, the owner, shipper, consignee, grower, seed dealer, landowner or their agent.

"Person" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.

"Regulated area" means those geographic areas that are protected from the introduction of specified plant pests by the provisions of this quarantine.

"Seed lot" means a designated quantity of seed that is uniquely identified by a lot number.

"Seed program" means the Washington state department of agriculture seed program.

"Trial ground" means a specific parcel of land approved by the director for experimental or limited production or increase of crucifer seed and for planting seed lots whose quantity of seed is insufficient to allow for pathological testing.

"True seed" means a mature fertilized ovule consisting of an embryo, with or without an external food reserve enclosed by a seed coat.

[Statutory Authority: Chapters 15.49, 17.24, and 34.05 RCW. 06-01-111, § 16-301-495, filed 12/21/05, effective 1/21/06.]

WAC 16-301-500 What crucifer articles are regulated by this chapter? (1) With the exception of the exemptions listed in WAC 16-301-525(4), all crucifer seed, seedlings, roots, or transplants intended for seed production, oil production, commercial vegetable production or cover crop use are regulated under the provisions of this chapter.

(2) This chapter also regulates crop residue remaining from the harvest of infected crucifer plants.

[Statutory Authority: Chapters 15.49, 17.24, and 34.05 RCW. 06-01-111, § 16-301-500, filed 12/21/05, effective 1/21/06.]

WAC 16-301-505 What diseases are regulated by this chapter? (1) **"Regulated diseases"** means those bacterial and fungal diseases of crucifers listed in this section and any new variations or strains of these diseases.

(2) **"Regulated pathogens"** means those bacterial and fungal organisms identified as the casual agents for the diseases listed in this section.

(3) The following bacterial and fungal diseases of crucifers, and any new strains or variations of these diseases are regulated by this chapter:

Common Name	Scientific Name
Black leg of Crucifers	<i>Phoma lingam</i>
Black rot	<i>Xanthomonas campestris</i> <i>pv. campestris</i>

[Statutory Authority: Chapters 15.49, 17.24, and 34.05 RCW. 06-01-111, § 16-301-505, filed 12/21/05, effective 1/21/06.]

WAC 16-301-510 What seed must undergo dormancy testing? Any seed of a *Brassica* or *Sinapis* species

whose primary uses for any nonvegetable use must be tested for the presence of dormant seed.

This testing must be done by either a single or paired germination test that demonstrates freedom of dormant seed.

[Statutory Authority: Chapters 15.49, 17.24, and 34.05 RCW. 06-01-111, § 16-301-510, filed 12/21/05, effective 1/21/06.]

WAC 16-301-515 What is the quarantined area for this crucifer seed quarantine? (1) The quarantine area for the crucifer seed quarantine includes all Washington state counties except Clallam, Island, Lewis, Skagit, Snohomish, and Whatcom counties.

(2) Regulated articles imported into Washington state must comply with the regulations of this chapter before transport into the regulated area. No additional requirements apply within the quarantine area but all regulated articles transported into the regulated area must comply with the regulations of this chapter.

[Statutory Authority: Chapters 15.49, 17.24, and 34.05 RCW. 06-01-111, § 16-301-515, filed 12/21/05, effective 1/21/06.]

WAC 16-301-520 What is the regulated area for this crucifer seed quarantine? The regulated area for this crucifer seed quarantine includes Clallam, Island, Lewis, Skagit, Snohomish, and Whatcom counties.

[Statutory Authority: Chapters 15.49, 17.24, and 34.05 RCW. 06-01-111, § 16-301-520, filed 12/21/05, effective 1/21/06.]

WAC 16-301-525 What are the exemptions to the crucifer seed quarantine that apply within the regulated area? This crucifer quarantine does not apply to:

(1) Experiments or trial grounds of the United States Department of Agriculture;

(2) Experiments or trial grounds of a university such as but not limited to the University of Idaho or Washington State University research stations; or

(3) Trial grounds of any person, firm or corporation that are approved by the director and established in accordance with WAC 16-301-550.

(4) Shipments, movements, or transportation of:

(a) Prepackaged crucifer seed in packages of 1/2 ounce or less if the seeds are free of diseases; or

(b) Vegetable seedlings offered for sale for home garden use in the regulated area if the seedlings are free of diseases.

(5) Research, variety development, variety maintenance or other crucifer production where the entire crop cycle is confined within a building or greenhouse.

[Statutory Authority: Chapters 15.49, 17.24, and 34.05 RCW. 06-01-111, § 16-301-525, filed 12/21/05, effective 1/21/06.]

WAC 16-301-530 What requirements apply to planting crucifer seed in the regulated area? (1)(a) It is a violation of this chapter to plant or establish crucifer seed that is infected with any regulated disease in the regulated area.

(b) Any seed of a *Brassica* or *Sinapis* species planted or established in the regulated area whose primary use is for any nonvegetable use must be tested for the presence of dormant seed as required by WAC 16-301-510.

(2) Any person who plans to ship, move, or transport any crucifer seed intended for planting purposes into or within the

regulated area must file a Notice of Intent/Quarantine Compliance form with the seed program before planting or offering the seed for sale.

(3) The Notice of Intent/Quarantine Compliance form filed with the seed program must be accompanied by a copy of the:

(a) Laboratory analysis or some other proof (such as a phytosanitary certificate based upon laboratory testing issued from the state or country of production) demonstrating that the lot is free of regulated diseases; and

(b) Seed analysis certificate(s) showing that the lot is free from dormant seed, if required under WAC 16-301-510.

(4) It is a violation of this chapter for any crucifer seed intended for seed production, oil production, commercial vegetable production or cover crop use to be offered for sale within or into the regulated area unless each seed container bears a label issued by the seed program indicating that the seed is in compliance with the requirements of this chapter.

[Statutory Authority: Chapters 15.49, 17.24, and 34.05 RCW. 06-01-111, § 16-301-530, filed 12/21/05, effective 1/21/06.]

WAC 16-301-535 What requirements apply to boxes and racks used to ship crucifer seedlings? (1) Only boxes that have not previously contained crucifer seedlings may be used for shipping transplants into or within a regulated area.

(2) Racks used to ship transplanted crucifer seedlings must be thoroughly disinfected with an appropriate sanitizer before the seedlings are shipped.

[Statutory Authority: Chapters 15.49, 17.24, and 34.05 RCW. 06-01-111, § 16-301-535, filed 12/21/05, effective 1/21/06.]

WAC 16-301-540 What requirements apply to crucifer transplants grown in greenhouses in the regulated area? (1) All crucifer transplants produced in greenhouses in the regulated area must be subjected to pest control procedures that reduce the presence of diseases or insects that may inhibit identifying regulated diseases.

(2) The interiors of greenhouses in the regulated area used to produce crucifer transplants must be free of crucifer weeds.

(3) One hundred meter buffers, free of crucifer weeds, must surround all greenhouses in the regulated area used to produce crucifer transplants.

[Statutory Authority: Chapters 15.49, 17.24, and 34.05 RCW. 06-01-111, § 16-301-540, filed 12/21/05, effective 1/21/06.]

WAC 16-301-545 What requirements apply to crucifer seed lots that test positive for any regulated disease?

(1) If a crucifer seed lot tests positive for any regulated disease, the infected seed lot may be treated with an approved seed treatment.

(2) After treatment, the seed lot must be tested for the presence of regulated diseases using appropriate pathological testing methods.

(3) If the pathological testing yields negative test results, the seed lot will be considered in compliance with this chapter.

(4) It is a violation of this chapter to plant seed in the regulated area that tests positive for any regulated disease subsequent to any approved treatment method.

[2006 WAC Supp—page 32]

[Statutory Authority: Chapters 15.49, 17.24, and 34.05 RCW. 06-01-111, § 16-301-545, filed 12/21/05, effective 1/21/06.]

WAC 16-301-550 If documentation verifying that crucifer seed is free from regulated diseases is not available, what protocols must be followed before the seed is planted in a regulated area? When no documentation exists verifying that a crucifer seed lot is free from regulated diseases, the following protocols must be followed before the seed is planted in the regulated area:

(1) A crucifer seed lot will be classified as a suspect seed lot if the seed lot lacks the documentation verifying that the lot complies with the crucifer seed quarantine requirements of this chapter.

(2) Suspect seed lots must:

(a) Not be offered for sale in the regulated area.

(b) Be treated by an approved treatment method.

(c) Be sown in a greenhouse and the seedlings must pass inspection by seed program inspectors before transplanting to the field.

(3) Any greenhouse operation used to grow crucifer seedlings for transplant must:

(a) Physically separate suspect seed lots from other crucifer production within that greenhouse.

(b) Monitor and document the location and identity of each suspect seed lot during production.

(4) It is a violation of this chapter for seedlings from a suspect seed lot to be topped, clipped, chopped or undergo any other treatment to toughen them or reduce their size.

(5) All seedlings from a suspect seed lot that exhibit symptoms of regulated diseases must be physically separated from asymptomatic transplants in that lot.

(6) Before shipping seedlings from a suspect seed lot, the seedlings must be inspected by seed program inspectors for the presence of regulated diseases.

(a) If no symptoms of regulated diseases are detected during this inspection, the suspect seed lot is considered in compliance with this chapter and may be sold and planted within the regulated area.

(b) If seedlings display symptoms of regulated diseases, laboratory testing for the diseases is mandatory.

(c) If seedlings from a suspect seed lot test negative for regulated pathogens after appropriate pathological testing, the suspect seed lot is considered in compliance with this chapter and may be sold and planted within the regulated area.

(d) If the presence of a regulated disease is confirmed by laboratory testing, all seedlings from a suspect seed lot may be subject to a quarantine order or destruction order under WAC 16-301-570.

(7) Any crucifer seed production fields, plant beds, or greenhouse production that will be planted with or receives production from suspect seed lots that are determined to be free from regulated diseases under subsection (6) of this section must be entered into the Washington state phytosanitary inspection program as required under WAC 16-301-235.

(8)(a) It is a violation of this chapter to plant seedlings from a suspect seed lot that tests positive for any regulated disease in the regulated area.

(b) Any suspect seed lot testing positive for any regulated disease may be subject to a quarantine order or a destruction order under WAC 16-301-570.

[Statutory Authority: Chapters 15.49, 17.24, and 34.05 RCW. 06-01-111, § 16-301-550, filed 12/21/05, effective 1/21/06.]

WAC 16-301-555 How are approved trial grounds established and what rules apply to them? (1) If a crucifer seed lot has not been tested to determine if it is disease free, and the quantity of seed in the lot is too small for testing to be practical, it must be planted in an approved trial ground that meets the requirements of the seed program.

(2) Trial grounds may be established for the purposes of, but not limited to, variety maintenance, variety development or other related research.

(3)(a) The seed program must approve a trial ground before it is established.

(b) Failure to obtain approval of a trial ground before it is established is a violation of this chapter and may subject the trial ground to a destruction order under WAC 16-301-570.

(4)(a) Trial grounds must be isolated from crucifer production crops according to the standards set in "*Seed Field Minimum Isolation Distances*" published by the Washington State University (WSU) cooperative extension.

(b) Copies of this publication can be obtained by contacting a WSU extension office.

(5) A person may plant crucifer seed in an approved trial ground after notifying the seed program, in writing, of their intent to plant for research purposes only. The notification will include an assurance that the person planting crucifer seed in an approved trial ground will comply with the inspection procedures in WAC 16-301-560, the isolation requirements prescribed by the WSU extension publication "*Seed Field Minimum Isolation Distances*," and any other requirements established by the director.

(6) The maximum planting in a trial ground is:

- (a) One pound per variety for crucifer seed; and
- (b) One-half acre for crucifer transplants.

[Statutory Authority: Chapters 15.49, 17.24, and 34.05 RCW. 06-01-111, § 16-301-555, filed 12/21/05, effective 1/21/06.]

WAC 16-301-560 What are the inspection requirements for trial grounds? (1) Applications for the phytosanitary field inspection of a trial ground must be submitted to the department before September 1 of the year the trial ground is established.

(2) A minimum of two phytosanitary field inspections of a trial ground must be conducted. These inspections must take place:

- (a) During the seedling stage; and
- (b) At the bloom stage.

(3) The phytosanitary field inspection application must include:

- (a) A detailed varietal planting plan;
- (b) A description of the exact location of the trial ground;
- (c) The manner in which the trial ground will be isolated from other known crucifer production; and
- (d) The distance by which the trial ground is isolated from other known crucifer production.

(4) If the field inspections detect any regulated pathogens, the trial ground is subject to destruction upon the order of the director.

(5) A disinfectant must be applied to the:

(a) Machinery used in the production of the crucifer crop;

(b) Footwear of all persons entering the trial grounds; and

(c) Footwear of all persons before traveling from a trial ground to other crucifer fields.

[Statutory Authority: Chapters 15.49, 17.24, and 34.05 RCW. 06-01-111, § 16-301-560, filed 12/21/05, effective 1/21/06.]

WAC 16-301-565 What are the testing requirements for seed harvested from an approved trial ground? (1) Seed harvested from an approved trial ground must be tested in an approved laboratory for the presence of regulated pathogens before it is planted in a regulated area.

(2) If the seed harvested from a trial ground tests positive for any regulated pathogens, it may not be released for general planting within a regulated area.

(3)(a) Seed harvested from a trial ground infected with a regulated pathogen must either be destroyed or shipped out of the regulated area.

(b) Written documentation of either the seed's destruction or shipment out of the regulated area must be submitted to the seed program within thirty days of the positive test for the regulated pathogen.

(c) Seed from a trial ground infected with a regulated pathogen that remains in a regulated area beyond thirty days may be subject to destruction upon the order of the director.

[Statutory Authority: Chapters 15.49, 17.24, and 34.05 RCW. 06-01-111, § 16-301-565, filed 12/21/05, effective 1/21/06.]

WAC 16-301-570 What are the penalties for violating the crucifer seed quarantine? (1) When the director determines that crucifer seed or production is infected with a regulated disease, the director may issue a quarantine order or notice of destruction. A violation of this chapter may also result in either a quarantine order or notice of destruction as determined by the director and the rules regulating the crucifer quarantine. Any costs associated with complying with a notice of destruction or quarantine order is the sole responsibility of the owner and not the responsibility of the department.

(2) The director may issue a notice of destruction:

(a) The notice of destruction will identify the property or seed lot affected.

(b) The notice of destruction will order the destruction of regulated articles or prescribe the terms of entry, inspection, partial destruction and/or treatment of regulated articles.

(c) The notice of destruction may prescribe control measures or other requirements needed to prevent the infection of adjacent properties with a regulated disease.

(d) To ensure that the affected parties comply with the measures required to eliminate a disease caused by regulated pathogens, the director will notify the owner and seed company representatives, if known, regarding the methods of destruction to be used, the extent of the destruction and the safeguards being implemented to prevent the spread of the disease.

(3) The director may order the quarantine of any regulated article or planting area. The director will:

- (a) Determine the quarantine conditions;
- (b) Determine if a quarantine extension is warranted; and
- (c) Prescribe sanitary precautions that will prevent the spread of the suspected regulated disease.

(4) To prevent the spread of the suspected regulated disease, persons entering the quarantined area must follow the sanitary precautions in WAC 16-301-560(5). Entry into the quarantined area is restricted to:

- (a) The owner;
 - (b) Department employees;
 - (c) University personnel or other plant pathology specialists; and/or
 - (d) Persons authorized in writing by the director.
- (5) Fields placed under a quarantine order:

(a) Must enter the Washington state phytosanitary inspection program as required under WAC 16-301-235 with all inspection costs borne by the owner.

(b) May be subject to additional inspection, control, isolation, or destruction requirements if the director determines they are needed to prevent the spread of regulated pathogens.

(6) Any owner violating the requirements of this crucifer quarantine is subject to the civil and/or criminal penalties as established in chapters 15.49 and/or 17.24 RCW.

[Statutory Authority: Chapters 15.49, 17.24, and 34.05 RCW. 06-01-111, § 16-301-570, filed 12/21/05, effective 1/21/06.]

WAC 16-301-575 How are diseased crucifer seeds and infected fields identified? (1) So that timely investigations may be made, all interested parties, including owners, seed company representatives, and university extension personnel are encouraged to promptly report any suspected infected crucifer fields to the seed program.

(2) Any crucifer crop infected with a regulated pathogen must be reported to the seed program within seventy-two hours after the regulated pathogen is discovered.

(3)(a) The seed program may conduct inspections and tests to determine infection of any crucifer seed or production with a regulated disease.

(b) If a WSDA plant services program plant pathologist and a qualified plant pathologist representing a commercial company or owner disagree over the presence of a regulated disease, the company or owner may request a verification test for a regulated pathogen. A university plant pathologist may recommend the verification test. The verification test must use accepted scientific and professional techniques and will be at the owner's expense.

(c) The affected planting area will be placed under quarantine for at least thirty days or until verification testing is completed.

[Statutory Authority: Chapters 15.49, 17.24, and 34.05 RCW. 06-01-111, § 16-301-575, filed 12/21/05, effective 1/21/06.]

WAC 16-301-580 What regulations apply to diseased crucifer seeds and infected fields? (1) When the director determines that a field is infected with a regulated pathogen and threatens to infect other fields, the director may issue a notice of destruction prescribing control measures or other requirements needed to prevent the infection of adjacent properties.

[2006 WAC Supp—page 34]

(2) Unless the crop is within two weeks of harvest, any crucifer crop within the regulated area that is infected with a regulated pathogen may be subject to immediate destruction, in part or in total. The owner is responsible for the expenses incurred to destroy a diseased crucifer crop.

(3) The following requirements apply to crops that are within two weeks of harvest:

(a) Residues must be destroyed or incorporated into the ground immediately after harvest;

(b) Harvested seed must be isolated from other seed lots until it is treated with hot water and/or chlorine seed treatments;

(c) Harvest equipment must be steam cleaned before entering any other fields; and

(d) WSDA personnel in consultation with WSU extension personnel must monitor these post-harvest activities.

[Statutory Authority: Chapters 15.49, 17.24, and 34.05 RCW. 06-01-111, § 16-301-580, filed 12/21/05, effective 1/21/06.]

Chapter 16-302 WAC

GENERAL RULES FOR SEED CERTIFICATION

(Formerly chapters 16-300, 16-304, 16-313, 16-316, 16-317, 16-318, 16-493, 16-494 and 16-495)

WAC

16-302-105 Seed certification—Objectionable weeds.

WAC 16-302-105 Seed certification—Objectionable weeds. The following weeds are considered objectionable noxious weeds for the purpose of seed certification.

ENGLISH OR COMMON NAME	BOTANICAL OR SCIENTIFIC NAME
Blackgrass	<i>Alopecurus myosuroides</i>
Blue lettuce	<i>Lactuca tatarica</i>
Docks and Sorrel	<i>Rumex spp.</i>
Field pennycress (fanweed)	<i>Thlaspi arvense</i>
Field sandbur	<i>Cenchrus incertus</i>
Halogeton	<i>Halogeton glomeratus C.A. Mey.</i>
Medusahead	<i>Taeniatherum caput-medusae subsp. caputmedusae</i>
Plantains	<i>Plantago spp.</i>
Poverty weed	<i>Iva axillaris Pursh.</i>
Puncturevine	<i>Tribulus terrestris L.</i>
St. Johnswort	<i>Hypericum perforatum L.</i>
Dalmation toadflax	<i>Linaria dalmatica (L.) Mill.</i>
Yellow toadflax	<i>Linaria vulgaris Hill.</i>
Western ragweed	<i>Ambrosia psilostachya DC.</i>
Wild mustard	<i>Sinapis arvensis subsp. arvensis</i>
Wild oat	<i>Avena fatua L.</i>
Gromwell (in small grain)	<i>Buglossoides arvensis</i>
Bedstraw	<i>Galium spp. (in alfalfa only)</i>
Black mustard	<i>Brassica nigra</i>
Brown mustard	<i>Brassica juncea (in rape-seed only)</i>
Wild radish	<i>Raphanus raphanistrum</i>
Dyers woad	<i>Isatis tinctoria</i>

[Statutory Authority: Chapters 15.49, 17.24, and 34.05 RCW. 06-01-111, § 16-302-105, filed 12/21/05, effective 1/21/06. Statutory Authority: RCW

15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 00-24-077, § 16-302-105, filed 12/4/00, effective 1/4/01.]

Chapter 16-303 WAC

SEED ASSESSMENT, FEES FOR SEED SERVICES AND SEED CERTIFICATION

(Formerly chapters 16-300, 16-304, 16-313, 16-316, 16-317, 16-318, 16-493, 16-494 and 16-495 WAC)

WAC

16-303-020	Schedule of charges—Billing policies and procedures.
16-303-200	Seed program testing fees.
16-303-210	Fees for special seed tests.
16-303-250	Miscellaneous charges for seed services.
16-303-310	Organization for economic cooperation and development scheme for varietal certification (O.E.C.D.) fees.
16-303-320	Certification fees for seed certified by the department.
16-303-340	Seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum and small grains.

WAC 16-303-020 Schedule of charges—Billing policies and procedures. (1) Accounts.

(a) All billable services provided for under chapter 15.49 RCW are due and payable upon billing by the department. For the convenience of established accounts and in accord with good business practices, the department provides a monthly billing service. Accounts not paid in full within thirty days of billing are considered delinquent.

(b) On all debts due and payable after July 28, 1991, all delinquent accounts are assessed a late charge equal to one

and one-half percent per month, or portion of a month, on the unpaid balance.

(c) Except for established accounts where there is a reasonable expectation of additional charges during a calendar month, the minimum billable amount through the monthly billing system is twenty dollars. All billable services of less than twenty dollars are due and payable on the date that service is rendered.

(d) No person with an account ninety days or more in arrears may receive service except on the basis of payment in full at the time service is rendered. Accounts in arrears may be subject to legal action for collection and are not restored to monthly billing status until all past due amounts are paid-in-full.

(e) Accounts that become ninety or more days in arrears twice within a five-year period may be subject to a permanent requirement for payment in full at the time service is provided.

(2) Unless otherwise provided for in rule, requests for refund fees or assessments must be submitted to the department by June 30 of the year following payment of the fee or assessment.

(3) Fees for services not listed in rule are set on the basis of the actual cost to the department of agriculture, or the most appropriate fee established by rule.

[Statutory Authority: 2003 1st sp.s. c 25 § 309(2), RCW 15.49.310, 15.49.370(3) and chapter 34.05 RCW. 05-12-053, § 16-303-020, filed 5/26/05, effective 6/26/05. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 01-01-015, § 16-303-020, filed 12/6/00, effective 1/6/01.]

WAC 16-303-200 Seed program testing fees. Seed testing fees are as follows:

(1)

Category	Crop kind	PURITY	GERM/1	TZ	Additional Crops in each Category/2
1	Agricultural Grasses	37.00	22.60	41.83	Alkaligrass, Bermudagrass, Canarygrass, Foxtail, Switchgrass, Timothy, Zoysia
2	Alfalfa & Clover	28.78	24.66	41.83	Alfalfa, Black Medic, Clover, Lupine, Milkvetch, Sainfoin, Trefoil
3	Beans	26.72	24.66	41.83	Beans
4	Beets	39.06	43.16	41.83	Beets, Swiss chard, spinach
5	Bentgrass, redtop	65.78	34.94	41.83	Bentgrass, redtop
6	Bluegrass	45.22	30.82	41.83	Bluegrass, all types
7	Brassica sp.	69.88	34.94	41.83	Brassica Species
8	Brome	47.28	24.66	41.83	Brome: Mountain, Smooth, Meadow
9	Fescue	37.00	24.66	41.83	Fescue: Tall and Meadow
10	Fescue, all others	45.22	24.66	41.83	Fescue: Arizona, Blue, Blue Hard, chewings, creeping, Hard, Idaho, Red, Sheep
11	Flax	28.78	24.66	41.83	Lewis flax
12	Orchardgrass	51.38	26.72	41.83	Orchardgrass
13	Peas and other large seeded legumes	28.78	24.66	41.83	Peas, Chickpeas, Lentil
14	Primrose	28.78	24.66	41.83	Primrose
15	Ryegrass	45.22	22.60	41.83	Ryegrass, (Perennial or Annual)
16	Small burnet	28.78	24.66	41.83	Small burnet
17	Sudangrass	28.78	24.66	41.83	Sudangrass

Category 18	Crop kind Vegetables	PURITY 28.78	GERM/1 24.66	TZ 45.00	Additional Crops in each Category/2 Vegetables: Asparagus, Cantaloupe, Carrot, Celery, Corn, Coriander, Cucumber, Dill, Eggplant, Endive, Leek, Lettuce, Okra, Onion, Parsley, Parsnip, Pepper, Pumpkin, Radish, Squash, Tomato, Watermelon
19	Grains and Pulses	28.78	24.66	41.83	Wheat, Triticale, Sunflower, Sorghum, Safflower, Rye, Rice, Millet, Buckwheat, Barley, Oats, Vetch
20	Wheatgrass, Wildrye, other native sp.	78.12	30.82	41.83	Wheatgrass: Beardless, Bluebunch, Crested, Intermediate, Pubescent, R/S, Slender, Siberian, Tall, Thickspike, Western Wildrye Other Native Species: Echinacea, Green needlegrass, Indian ricegrass, Junegrass, Little bluestem, Needle and Thread, Squirreltail, Kochia, Penstemon, Oatgrass, Prairie sandreed, Sand dropseed, Sand Lovegrass, Sideoats grama

/1 Standard 400 seed germination test.

(2) Crops not listed in the above table will be charged by the category that they fit into.

[Statutory Authority: 2003 1st sp.s. c 25 § 309(2), RCW 15.49.310, 15.49.370(3) and chapter 34.05 RCW. 05-12-053, § 16-303-200, filed 5/26/05, effective 6/26/05. Statutory Authority: Chapters 15.49 and 34.05 RCW, 2003 c 308. 03-18-071, § 16-303-200, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.370(3), 15.49.310, and chapter 34.05 RCW. 03-08-005, § 16-303-200, filed 3/20/03, effective 4/20/03. Statutory Authority: Chapters 15.49 and 34.05 RCW. 02-12-061, § 16-303-200, filed 5/30/02, effective 6/30/02. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 01-01-015, § 16-303-200, filed 12/6/00, effective 1/6/01.]

WAC 16-303-210 Fees for special seed tests.

Test	Fee	Additional Information
(1) All states noxious weed examination	\$ 33.38	
(2) Dormant Seed Test	\$ 41.83	
(a) For crops requiring a 400 seed TZ as required in the AOSA rules	\$ 83.66	
(b) This fee also applies to paired tests when required by AOSA rules		
(3) Brassica seed chemical identification	\$ 20.94	
(4) Cold (vigor) test for wheat	\$ 65.00	
(5) Crop or weed exam		
(a) Turf-type and other small seeded grasses	\$ 38.00	Standard noxious amount from AOSA rules Kentucky bluegrass, timothy, alkaligrass, fine-leaved fescues
(b) Small seeded legumes and medium seeded crops	\$ 44.00	Brassicas, ryegrass, tall fescue
(c) Wheatgrass and native species	\$ 50.00	
(d) Grains and pulses	\$ 22.00	
(6) Fescue seed ammonia test	\$ 30.82	
(7) Fluorescence test (400 seed test)	\$ 26.72	
(8) Miscellaneous services, samples requiring extra time, field run samples, etc.	\$ 30.00/hour	
(9) Pest and disease (phyto exam) or soil exam	\$ 34.94	
(10) Quarantine tests on seed		
Bluegrass and Bentgrass	\$ 18.04/5 grams	
Other grasses	\$ 18.04/10 grams	
(11) Rules test—Canadian	PURITY	GERMINATION
Alfalfa, clover, peas, lentils	\$ 32.37	\$ 24.66

Test	Fee	Additional Information
Kentucky bluegrass	\$ 49.34	\$ 30.82
Bentgrass	\$ 72.47	\$ 34.94
(12) Rules test—I.S.T.A.	PURITY	GERMINATION
Alfalfa, clover, peas, lentils	\$ 32.37	\$ 30.82
Kentucky bluegrass	\$ 49.34	\$ 30.82
(13) Moisture test	\$ 30.00	
(14) Seed Count	\$ 21.84	
(15) Out-sourcing charge	\$ 15.00	
(16) Sod seed analysis	Bluegrass \$ 75.00	
	Fescue \$ 52.00	
	Ryegrass \$ 42.00	
(17) Sodium Hydroxide test for presence of red and/or white wheat	\$ 20.54	
(18) Undesirable grass species test (includes an all states noxious test) examination (UGS test)	\$ 70.37	

[Statutory Authority: 2003 1st sp.s. c 25 § 309(2), RCW 15.49.310, 15.49.370(3) and chapter 34.05 RCW. 05-12-053, § 16-303-210, filed 5/26/05, effective 6/26/05. Statutory Authority: Chapters 15.49 and 34.05 RCW, 2003 c 308. 03-18-071, § 16-303-210, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.370(3), 15.49.310, and chapter 34.05 RCW. 03-08-005, § 16-303-210, filed 3/20/03, effective 4/20/03. Statutory Authority: Chapters 15.49 and 34.05 RCW. 02-12-061, § 16-303-210, filed 5/30/02, effective 6/30/02. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 01-01-015, § 16-303-210, filed 12/6/00, effective 1/6/01.]

WAC 16-303-250 Miscellaneous charges for seed services. Fees for miscellaneous department seed services are as follows:

Service	Fee
Rush samples (including phone or FAX report if requested at time sample is submitted)	\$ 15.00
High priority sample - purity result completed before the end of the next business day. (Special circumstances only. Call ahead for availability.)	\$ 150.00
Phone reports on test result, per call	\$ 7.18
Preliminary report on germination	\$ 20.00
Additional mailing of report	\$ 5.12
	each destination
Additional copies of reports	\$ 5.12
	minimum fee
Revised reports	\$ 10.26 minimum (hourly fee when applicable)
Fee for special shipping and handling service, for example Federal Express, Air Parcel or air freight	\$ 3.70 plus exact shipping cost
Fee for facsimile transmission of documents	\$ 1.00
	per document
Mileage - additional or special requested trips	As established by the Washington State Office of Financial Management
Stand-by time - or travel time	\$ 30.00/hour
Sample envelopes	Travel time to be charged when special trip is requested. Customer will be charged the exact cost of the envelopes.

[Statutory Authority: 2003 1st sp.s. c 25 § 309(2), RCW 15.49.310, 15.49.370(3) and chapter 34.05 RCW. 05-12-053, § 16-303-250, filed 5/26/05, effective 6/26/05. Statutory Authority: Chapters 15.49 and 34.05 RCW, 2003 c 308. 03-18-071, § 16-303-250, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.370(3), 15.49.310, and chapter 34.05 RCW. 03-08-005, § 16-303-250, filed 3/20/03, effective 4/20/03. Statutory Authority: Chapters 15.49 and 34.05 RCW. 02-12-061, § 16-303-250, filed 5/30/02, effective 6/30/02. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 01-01-015, § 16-303-250, filed 12/6/00, effective 1/6/01.]

WAC 16-303-310 Organization for economic cooperation and development scheme for varietal certification (O.E.C.D.) fees. In addition to fees required by applicable Washington certification rules, the following fees shall apply to all seed tagged O.E.C.D. and is payable by the person requesting O.E.C.D. certificate. The certifying agency may require fees paid in advance:

Service	Fee	Additional Information
O.E.C.D. certificate	\$ 15.41 each	
O.E.C.D. grow out test	\$ 65.72 each entry	No charge for control entry
O.E.C.D. assessment	cost to program	
O.E.C.D. tagging fee	\$ 0.84/cwt.	All grasses except tall fescue
	\$ 0.51/cwt.	Tall fescue
	\$ 0.53/cwt.	all other crops

[Statutory Authority: 2003 1st sp.s. c 25 § 309(2), RCW 15.49.310, 15.49.370(3) and chapter 34.05 RCW. 05-12-053, § 16-303-310, filed 5/26/05, effective 6/26/05. Statutory Authority: Chapters 15.49 and 34.05 RCW, 2003 c 308. 03-18-071, § 16-303-310, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.370(3), 15.49.310, and chapter 34.05 RCW. 03-08-005, § 16-303-310, filed 3/20/03, effective 4/20/03. Statutory Authority: Chapters 15.49 and 34.05 RCW. 02-12-061, § 16-303-310, filed 5/30/02, effective 6/30/02. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 01-01-015, § 16-303-310, filed 12/6/00, effective 1/6/01.]

WAC 16-303-320 Certification fees for seed certified by the department. (1) Fees apply to both new and renewal applications.

The seed processor is responsible for seed certification fees including sampling, testing, production and final certifi-

cation fees, and may accept responsibility for any other additional fees associated with certification. Fees for services

such as O.E.C.D. and sod quality, etc., are in addition to the fees listed in this section.

Seed	Application Fee 1/	Seedling field inspection fee	Seedling producing or field inspection Fee 2/	Late Application Penalty Fee	Reinspection Fee (other than isolation)	Production Fee (includes tagging) 7/	Seed shipped Out-of-State (uncleaned)
Alfalfa, Red clover, White clover and Trefoil	\$ 30.00 per variety per grower	\$ 50.00/field	\$ 1.85/acre	\$ 41.00	\$ 53.44 ea. field	\$ 0.53/cwt. 5/	\$ 0.20/cwt.
Bean	\$ 30.00 per variety per grower	N/A	\$ 1.85/acre 3/ (one inspection) \$ 3.70/acre 4/ (two inspections)	\$ 41.00	\$ 53.44 ea. field	\$ 0.53/cwt.	\$ 0.20/cwt.
Turnip, Rutabaga	\$ 30.00 per field	N/A	\$ 3.70/acre (two inspections)	\$ 41.00	\$ 53.44 each field	\$ 0.53/cwt.	\$ 0.20
Perennial Grasses 6/	\$ 30.00 per field	\$ 50.00/field	\$ 50.00 per field	\$ 41.00	\$ 53.44 each field	Option A \$ 0.84/cwt. for all grass except tall fescue \$ 0.51/cwt. tall fescue Option B \$ 1.17/cwt. (min. \$ 11.66)	\$ 0.31
Corn	\$ 30.00 for each separate combination/or isolation	N/A	\$ 50.00 first acre \$ 10.99 ea. additional acre except hybrid corn \$ 4.85 ea. additional acre	————	————	————	————
Annual grasses	\$ 30.00 per field	N/A	\$ 1.85/acre	\$ 41.00 per field	————	\$ 0.42/cwt.	\$ 0.20
Rapeseed	\$ 30.00 per variety per grower	N/A	\$ 1.85/acre (one inspection)	\$ 41.00 per grower	\$ 53.44 ea. field	\$ 0.53/cwt.	\$ 0.20

1/ Seed certification application due dates can be found in WAC 16-302-050.

2/ Seedling producing or field inspection fees are refundable if the acreage is withdrawn before the inspection is completed. In the case of bean seed, fees are required of seedling fields to be harvested for certification the year of planting.

3/ One inspection is required for Great Northern Red Mexican, pinto, pink, and small white bean.

4/ Includes windrow inspection which is required for certification of snap beans, kidney beans, and eligibility for shipment into the state of Idaho.

5/ Production fees are billed at completion of laboratory analysis tests. If no seed is tagged, \$ 0.10 of the \$ 0.53 per cwt. production fee is refundable.

6/ Option A: Inspection and final certification fees are based on pounds sampled and billed upon completion of required laboratory tests.

Option B: Inspection and final certification fees are based on pounds tagged after required laboratory tests are completed. Those dealers requesting sampling and tagging privileges and/or participation in Option B must sign a memorandum of agreement that shall expire on June 30 of each year. The memorandum may be terminated by the director if the conditioner violates certification standards or requirements of memorandum.

7/ Does not include shipping and handling charge.

(2) Other fees associated with grass seed certification:

Out-of-state origin seed tagged with interagency certification tags.

Grass Option A:

\$ 0.31 per cwt.

Grass Option B:

\$ 0.68 per cwt.

Reissuance of cert. tags:

\$ 0.11 per tag or minimum fee of \$ 11.66

[Statutory Authority: 2003 1st sp.s. c 25 § 309(2), RCW 15.49.310, 15.49.370(3) and chapter 34.05 RCW. 05-12-053, § 16-303-320, filed 5/26/05, effective 6/26/05. Statutory Authority: Chapters 15.49 and 34.05 RCW, 2003 c 308. 03-18-071, § 16-303-320, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.370(3), 15.49.310, and chapter 34.05 RCW. 03-08-005, § 16-303-320, filed 3/20/03, effective 4/20/03. Statutory Authority: Chapters 15.49 and 34.05 RCW. 02-12-061, § 16-303-320, filed 5/30/02, effective 6/30/02. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 01-01-015, § 16-303-320, filed 12/6/00, effective 1/6/01.]

WAC 16-303-340 Seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum and small grains. (1) Seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum and small grains are as follows:

(a) Application fee per variety per grower	\$21.28
(b) Field inspection fee per acre except millet and hybrid sorghum	\$2.94
(c) Millet - first acre	\$31.66
- each additional acre	\$6.31
(d) Hybrid sorghum - first acre	\$31.66
- each additional acre	\$12.65
(e) Special field inspection fee per acre	\$2.51
(f) Late application fee	\$19.94

(g) Reinspection fee	\$39.93
minimum for each field which did not pass field inspection plus \$0.43 for each acre over twenty-five. The reinspection fee for isolation requirements only for a field of any size is \$39.93.	
(h) Final certification fee	\$0.245
per cwt. of clean seed sampled, which is charged to conditioning plant, or production fee	\$0.105
per cwt. of production from fields inspected which is utilized for seed, which is charged to the grower or the final seller prior to brokerage, retail sale, sale to plant not approved for conditioning certified seed, or transshipment out-of-state.	
(i) Sampling fee	\$0.105
per cwt. of clean seed sampled, with minimum charge of \$10.30 per sample, which is charged to conditioning plant in lieu of mechanical sampling.	

(2) A field may be withdrawn upon notification by the applicant to the certifying agency's office before field inspection. In such case, the field inspection fee is refunded upon request until June 30 of the year following harvest.

(3) Harvest before field inspection causes forfeitures of both the application and field inspection fees, and completion of certification.

[Statutory Authority: RCW 15.49.310, 15.49.370(3) and chapter 34.05 RCW. 05-05-052, § 16-303-340, filed 2/14/05, effective 3/17/05; 04-06-029, § 16-303-340, filed 2/24/04, effective 3/26/04; 03-06-005, § 16-303-340, filed 2/20/03, effective 3/23/03; 02-05-082, § 16-303-340, filed 2/20/02, effective 3/23/02. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. 01-01-015, § 16-303-340, filed 12/6/00, effective 1/6/01.]

Chapter 16-319 WAC

FOREST TREE SEED CERTIFICATION

WAC

16-319-041	Application for certification of forest reproductive material.
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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-319-001	Promulgation. [Order 1028, Promulgation, filed 8/4/66, effective 9/4/66.] Repealed by 05-05-051, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 15.49.310, 15.49.370(3) and chapter 34.05 RCW.
16-319-002	Promulgation. [Order 1089, § 16-319-002, filed 6/4/68; Order 1044, Promulgation, filed 4/14/67, effective 5/15/67; Order 1030, filed 8/19/66, effective 9/19/66.] Repealed by 05-05-051, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 15.49.310, 15.49.370(3) and chapter 34.05 RCW.
16-319-003	Promulgation. [Order 1151, § 16-319-003, filed 4/16/70.] Repealed by 05-05-051, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 15.49.310, 15.49.370(3) and chapter 34.05 RCW.
16-319-004	Promulgation. [Order 1189, § 16-319-004, filed 4/16/71.] Repealed by 05-05-051, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 15.49.310, 15.49.370(3) and chapter 34.05 RCW.
16-319-006	Promulgation. [Order 1247, § 16-319-006, filed 4/13/72.] Repealed by 05-05-051, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 15.49.310, 15.49.370(3) and chapter 34.05 RCW.

16-319-007 Promulgation. [Order 1369, § 16-319-007, filed 6/12/74.] Repealed by 05-05-051, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 15.49.310, 15.49.370(3) and chapter 34.05 RCW.

WAC 16-319-041 Application for certification of forest reproductive material. (1) The conditions of applicant's submittal and of certifying agency's acceptance of application are:

(a) The application should show all classes for which certification services are requested.

(b) All reproductive material acquired or distributed by applicant of a type for which certification is requested is subject to audit.

(c) Applicant shall be responsible for payment of fees for certification services.

(d) Applicant is responsible for developing a record keeping system and labels available and satisfactory to the certifying agency.

(e) Certifying agency reserves the right to refuse certification service to applicant.

(f) Application for audit certification reproductive material shall be filed with certifying agency of the state in which warehouse, nursery, etc., is located with a copy to the certifying agency in the state where the reproductive material is collected.

(2) Timing of application requests for certification services:

(a) Application requests for source identified subclass B and lower classes for the current year's production of reproductive material shall be received by certifying agency from applicant not later than three days prior to initiation of collection, production, or propagation of forest reproductive material.

(b) For source identified subclass A and higher certification class, the applicant shall make application for service, and present a written plan to the certifying agency two weeks prior to the beginning of the collection season. The written plan will include the following:

(i) For subzone collection, areas shall be defined by legal description.

(ii) Details of the collection organization including names of buyers and field supervisors, estimated harvest volume, receiving station location(s), and other pertinent information.

(c) Application requests for all other services shall be received by certifying agency from applicant not later than seven days before need.

(3) The certifying agency establishes the fee schedule for certification services. These may be adjusted at the beginning of a crop year if certifying agency determines that costs are significantly more or less than anticipated: Provided, That increases shall not exceed twenty-five percent.

(a) Cones and seed:

(i) Tested and selected - the service includes review of test plans, audit of pertinent records and field inspection at the hourly job time rate shown in current fee schedule.

(ii) Source identified classes - the fee includes field inspection at the per bushel rate shown in the current fee schedule and audit of conditioning at the hourly rate also shown in the current fee schedule.

The fee for each lot containing less than sixty bushels shall be a maximum of thirty-six dollars: Provided, That the certifying agency, due to specific circumstances, may waive this maximum fee or a part thereof.

(iii) Audit class - the fee includes audit of applicant's field and conditioning records at the hourly rate shown in the current fee schedule.

(b) Trees: The fee includes the verification of the source of the trees from the seed source, stratification, sowing, bed identification, lifting, sorting, package identification, storing and/or transplanting.

(c) Not entered for certification: The fee for audit of reproductive material not entered for certification service is performed as required by and satisfactory to certifying agency to exercise said audit simultaneously with audit of reproductive material which applicant has requested certification service.

(d) The fee for certification classes applied for shall be charged whether or not offered material qualifies.

(e) The certifying agency may provide other services, such as training to comply with these standards, advising on the development of recordkeeping systems directly connected with certification needs if requested by the applicant.

(4) Fee schedule:

(a) Tree cones and seed -

Certification Classes	Field Inspection	Audit	Fee Due
Tested and Selected	\$ 27.00/hr.	\$ 27.00/hr.	When billed
Source Identified Classes:			
Lots 11 bu. and more	\$ 0.88/bu.	\$ 27.00/hr.	
Lots 6-10 bu.	\$ 21.89/lot	\$ 27.00/hr.	
Lots 0-5 bu.	\$ 13.00/lot	\$ 27.00/hr.	
Audit	None	\$ 27.00/hr.	When billed

(b) Tree certification - \$ 27.00/hr.

Seedling certification - experience has shown that seedling certification normally requires a minimum of five nursery visits totaling approximately thirty-two hours. Plantation certification procedures shall be billed at the hourly rate.

(c) Other services including education to comply with the standards, development of record system, verification of source of pollen, cuttings, audit of forest reproductive material not offered for certification by applicant or other services requested, etc. at \$ 27.00/hr. payable when billed.

(d) OECD certification (certificates of provenance) - \$ 0.60 per certificate plus the hourly audit rate. (Auditors shall issue certificates.)

[Statutory Authority: RCW 15.49.310, 15.49.370(3) and chapter 34.05 RCW. 05-05-051, § 16-319-041, filed 2/14/05, effective 3/17/05; 04-06-028, § 16-319-041, filed 2/24/04, effective 3/26/04. Statutory Authority: RCW 15.49.995, 15.49.310, 15.49.370(3) and chapter 34.05 RCW. 03-06-006, § 16-319-041, filed 2/20/03, effective 3/23/03; 02-05-081, § 16-319-041, filed 2/20/02, effective 3/23/02. Statutory Authority: RCW 15.49.370(3). 99-24-043, § 16-319-041, filed 11/24/99, effective 12/25/99; 98-12-031, § 16-319-041, filed 5/28/98, effective 6/28/98; 96-11-044 (Order 5097), § 16-319-041, filed 5/8/96, effective 6/8/96. Statutory Authority: Chapter 15.49 RCW. 87-12-006 (Order 1930), § 16-319-041, filed 5/22/87; 84-13-079 (Order 1834), § 16-319-041, filed 6/21/84; 80-10-001 (Order 1704), § 16-319-041, filed 7/24/80; 79-05-070 (Order 1625), § 16-319-041, filed 4/30/79; Order 1506, § 16-319-041, filed 4/11/77; Order 1369, § 16-319-041, filed 6/12/74; Order 1189, § 16-319-041, filed 4/16/71; Order 1151, § 16-319-041, filed 4/16/70.]

Chapter 16-350 WAC

REGISTRATION AND CERTIFICATION OF FRUIT TREE PLANTING STOCK

WAC

16-350-035

Requirements for certified nursery planting stock.

WAC 16-350-035 Requirements for certified nursery planting stock. (1) All nursery stock being grown for certification must be propagated on certified rootstock. Certified rootstock must comply with at least one of the following conditions:

(a) Rootstock propagated directly from registered trees.

(b) Rootstock originating from other approved certification programs, if the rootstock was propagated directly from mother plants that have been tested and found free of all known virus and virus-like diseases.

(c) *Prunus persica* seedlings grown from commercial seed, if the seed lot has been tested for transmissible virus content, and not more than five percent of the seed tested positive for transmissible virus content.

(d) Pome fruit seedlings.

(2) Growers must keep records identifying the scion, rootstock, and interstock sources for all Washington certified stock. Upon request, these records must be made available to the department.

(3) Seed may be designated as Washington certified seed only if both of the following conditions are complied with:

(a) The seed was produced on registered seed trees; and

(b) The seed lot has been tested for transmissible virus content, and not more than five percent of the seed tested positive for transmissible viruses.

(4) Washington certified nursery stock must be identified by a blue certification tag.

(5) When it is offered for sale, Washington certified nursery stock must be identified as to variety, interstock and rootstock.

[Statutory Authority: Chapters 15.14 and 34.05 RCW. 05-03-042, § 16-350-035, filed 1/11/05, effective 2/11/05. Statutory Authority: Chapter 15.14 RCW. 00-19-036, § 16-350-035, filed 9/12/00, effective 10/13/00; 90-23-006 (Order 2058), § 16-350-035, filed 11/9/90, effective 12/10/90; Order 1331, § 16-350-035, filed 1/15/74; Order 1300, § 16-350-035, filed 3/26/73; Order 951, Regulation 2(d), filed 7/2/64; Order 890, Regulation 2 (part), effective 9/17/62.]

Chapter 16-390 WAC

WSDA FRUIT AND VEGETABLE INSPECTION DISTRICTS, INSPECTION FEES AND OTHER CHARGES

WAC

16-390-020

What are the fees for grade and condition certificates for fruit?

16-390-030

What are the fees for grade and condition certificates for vegetables?

16-390-150

What requirements apply to shipping permits and certificates of compliance for fruits and vegetables?

16-390-220

What is the fee for a field or orchard inspection?

WAC 16-390-020 What are the fees for grade and condition certificates for fruit? WSDA fees for grade and condition certificates for all fruits are:

(1) A minimum charge of sixteen dollars.

(2) The fees for **federal-state or state grade and condition certificates** of all fresh market apples, pears, and soft fruits in containers (wrapped, place pack, face and fill), bags, master containers, consumer packages, or loose in bulk cartons, boxes, crates, bins, or bags are listed in the following table:

Type of Fruit	Fees per CWT or Fraction Thereof
Apples on-line for domestic shipping, CA, etc.	\$0.17
Apples for export	\$0.17
Apricots, cherries, nectarines, peaches, plums, prunes, other soft fruits, grapes and berries	\$0.23
Pears	\$0.17
Pears for export	\$0.17

(3) The department will give a volume discount for apples and pears that are inspected and certified on-line for domestic shipment, controlled atmosphere certification, etc. Packing of up to 4800 cwt per eight-hour shift, the normal inspection fee will be assessed, and every cwt of product above 4800 cwt for that same shift will be charged at \$0.12 cwt. Platform inspection fees will still apply (WAC 16-390-200).

(4) The department charges a fee of three dollars per ton net weight (or fraction thereof) for all apples, pears, stone fruits, berries, and grapes in bulk or in containers that are inspected for processing.

(5) The department charges a fee of thirty-two dollars per hour, with a minimum certificate charge of sixteen dollars, when an inspection is requested only to verify the product, conveyance, markings, or other factors not related to quality.

[Statutory Authority: Chapters 15.17, 34.05 RCW, and 2003 1st sp.s. c 25 § 309(2). 05-12-054, § 16-390-020, filed 5/26/05, effective 6/26/05. Statutory Authority: Chapters 15.17, 34.05 RCW, and 2003 1st sp.s. c 25. 04-11-078, § 16-390-020, filed 5/18/04, effective 6/18/04.]

WAC 16-390-030 What are the fees for grade and condition certificates for vegetables? WSDA fees for grade and condition certificates for all vegetables are:

(1) A minimum charge of sixteen dollars.

(2) The fees for **federal-state or state grade and condition certificates** for all fresh market vegetables in containers (wrapped, place pack, face and fill), bags, master containers, consumer packages, or loose in bulk cartons, boxes, crates, bins, or bags are listed in the following table:

Type of Vegetables	Fees per CWT or Fraction Thereof
Asparagus	\$0.23
Cantaloupes and corn	\$0.14
Onions	\$0.09
Potatoes	\$0.07
In-state processing potatoes	\$0.08
Complete inspection	Rate shall be reduced for the level of service required
Tomatoes	\$0.21

(3) For the inspection of vegetables not listed, the department charges a fee of thirty-two dollars per hour.

(4) The department charges a fee of three dollars per ton net weight (or fraction thereof) for the inspection of vegetables to be processed, whether in bulk or in containers.

(5) When an inspection is requested only to verify the product, conveyance, markings, or other factors not related to quality, the department charges the rate of thirty-two dollars per hour, with a minimum certificate charge of sixteen dollars.

[Statutory Authority: Chapters 15.17, 34.05 RCW, and 2003 1st sp.s. c 25 § 309(2). 05-12-054, § 16-390-030, filed 5/26/05, effective 6/26/05. Statutory Authority: Chapters 15.17, 34.05 RCW, and 2003 1st sp.s. c 25. 04-11-078, § 16-390-030, filed 5/18/04, effective 6/18/04.]

WAC 16-390-150 What requirements apply to shipping permits and certificates of compliance for fruits and vegetables? (1) Each shipment of apples, apricots, Italian

prunes, peaches, pears, dark sweet cherries, Rainier cherries and asparagus must be covered by a shipping permit. All other sweet cherries, whether certified or not, must have a shipping permit indicating freedom from cherry fruit fly larvae.

(2) Shipments of apricots, cherries, peaches, prunes, and asparagus to processors do not require a shipping permit.

(3) A permit or certificate of compliance may be issued without additional charge if the lot is certified.

(4) If the lot has not been certified, a permit or certificate of compliance may be issued based upon the following charges:

(a) The minimum charge for a permit or certificate of compliance is three dollars.

(b) Two-thirds of the rate for federal-state or state grade and condition certificates applies.

(c) A permit to ship apples and/or pears to a by-product plant outside the state is three dollars.

[Statutory Authority: Chapters 15.17, 34.05 RCW, and 2003 1st sp.s. c 25 § 309(2). 05-12-054, § 16-390-150, filed 5/26/05, effective 6/26/05. Statutory Authority: Chapters 15.17, 34.05 RCW, and 2003 1st sp.s. c 25. 04-11-078, § 16-390-150, filed 5/18/04, effective 6/18/04.]

WAC 16-390-220 What is the fee for a field or orchard inspection? The fee for field or orchard inspections made at the applicant's request to determine the presence or absence of disease or insect infestation, or for some other reason is:

(1) Three dollars per acre or fraction thereof; or

(2) At the platform inspection rate specified in WAC 16-390-200(1).

[Statutory Authority: Chapters 15.17, 34.05 RCW, and 2003 1st sp.s. c 25 § 309(2). 05-12-054, § 16-390-220, filed 5/26/05, effective 6/26/05. Statutory Authority: Chapters 15.17, 34.05 RCW, and 2003 1st sp.s. c 25. 04-11-078, § 16-390-220, filed 5/18/04, effective 6/18/04.]

Chapter 16-401 WAC NURSERY INSPECTION FEES

WAC

16-401-027	Schedule of fees and charges—Applicable rates and charges.
16-401-032	Schedule of fees and charges—Miscellaneous charges.
16-401-041	Nursery dealer license fees.

WAC 16-401-027 Schedule of fees and charges—Applicable rates and charges. The following rates apply for requested inspection services:

(1) Fee or Charge:	
Hourly rate—business hours	\$31.95
Hourly rate—nonbusiness hours	\$40.80
Certificate issued at time of inspection	No charge
Certificate issued more than twenty-four hours after the inspection	\$15.20
Additional certificates	\$4.80
Fumigation lot or container fee	\$12.70
Certificate of plant health for non-commercial movement	\$6.25
Compliance agreement	\$31.95
Inspection tags or stickers (lots of 250)	\$6.25 per lot
Inspection tags or stickers (minimum 10)	\$0.28 each

(2) Mileage at the established office of financial management rate (schedule A), per diem at actual cost, and travel time at the applicable hourly rate may be assessed for requested inspections that are not a part of a regular work schedule. Such charge may be prorated among applicants if more than one applicant is provided service during a workday or trip when mileage and/or per diem are applicable.

(3) Inspections for phytosanitary certification, including growing season field inspections, are provided at the applicable hourly rate provided in subsection (1) of this section except where an alternate certification inspection fee is provided in statute, in rule, or by a written agreement between the department and an industry entity, university, or public agency. When growing season field inspections for phytosanitary certification and regulatory inspections are performed simultaneously, the first two hours of inspection each calendar year for nurseries licensed under WAC 16-401-041 (1)(b) or (2)(a); and the first four hours of inspection per calendar year for nurseries licensed under WAC 16-401-041 (1)(c) or (2)(b), are without charge.

There is no additional charge for the first phytosanitary certificate issued at the time of the inspection.

(4) Inspection and certification of nonplant material or equipment for sanitation (freedom from soil or pests) by visual examination or through witnessing a prescribed treatment (steam cleaning, hydro-washing, etc.) is charged at the applicable hourly rate.

(5) Witnessing and certification of fumigation is charged at the applicable hourly rate, plus a per lot or container fee.

(6) The department may issue a certificate of plant health for noncommercial movement of plant materials between states by unlicensed persons, up to a maximum of five plants, and provided that the plants are brought to a plant services office for inspection.

Note: When two or more types of inspection, provided in this section, are performed simultaneously, only one hourly rate applies. One certificate for one service is issued at no charge.

[Statutory Authority: Chapters 15.13, 15.14, and 34.05 RCW. 05-12-110, § 16-401-027, filed 5/31/05, effective 7/1/05; 04-17-037, § 16-401-027, filed 8/10/04, effective 9/10/04. Statutory Authority: Chapters 15.13, 15.14, 17.24, and 34.05 RCW. 03-21-166, § 16-401-027, filed 10/22/03, effective

11/22/03. Statutory Authority: Chapters 15.13, 15.14, and 34.05 RCW. 03-10-083, § 16-401-027, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapters 15.13 and 15.14 RCW. 01-11-031, § 16-401-027, filed 5/8/01, effective 6/8/01.]

WAC 16-401-032 Schedule of fees and charges—Miscellaneous charges. The following rates for miscellaneous charges on requested inspections shall apply.

(1) Postage, special handling services and other miscellaneous costs exceeding five dollars are charged at the actual cost.

(2) Other requested office services, not specifically provided for, are charged a fee based on the portion of an hour at the applicable hourly rate in this chapter.

[Statutory Authority: Chapters 15.13, 15.14, and 34.05 RCW. 05-12-110, § 16-401-032, filed 5/31/05, effective 7/1/05; 03-10-083, § 16-401-032, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapters 15.13 and 15.14 RCW. 01-11-031, § 16-401-032, filed 5/8/01, effective 6/8/01.]

WAC 16-401-041 Nursery dealer license fees. Annual license fees as established below, must accompany the application for nursery dealer license:

(1) Retail nursery dealer license fee:

(a) Gross business sales of horticultural plants and turf less than two thousand five hundred dollars \$38.73

(b) Gross business sales of horticultural plants and turf between two thousand five hundred dollars and fifteen thousand dollars, the license fee is \$82.99

(c) Gross business sales of horticultural plants and turf of fifteen thousand dollars or more \$166.00

(2) Wholesale nursery dealer license fee:

(a) Gross business sales of horticultural plants and turf less than fifteen thousand dollars \$82.99

(b) Gross business sales of horticultural plants and turf of fifteen thousand dollars or more \$166.00

(3) As provided in RCW 15.13.285, a surcharge of twenty percent of the base rate, in addition to the fees established on all classes of licenses in subsections (1) and (2) of this section, is established.

(4) Permit fee for those types of sales and organizations exempted from licensing requirements by RCW 15.13.270 \$6.15

[Statutory Authority: Chapters 15.13, 15.14, and 34.05 RCW. 05-12-110, § 16-401-041, filed 5/31/05, effective 7/1/05. Statutory Authority: Chapters 15.13, 15.14, 17.24 and 34.05 RCW. 03-21-166, § 16-401-041, filed 10/22/03, effective 11/22/03. Statutory Authority: Chapters 15.13, 15.14, and 34.05 RCW. 03-10-083, § 16-401-041, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapters 15.13 and 15.14 RCW. 01-11-031, § 16-401-041, filed 5/8/01, effective 6/8/01; 99-12-034, § 16-401-041, filed 5/26/99, effective 6/26/99.]

Chapter 16-406 WAC

WASHINGTON STANDARDS FOR APRICOTS

WAC

16-406-005	What definitions are important to understanding this chapter?
16-406-010	How do you determine the maturity of an apricot?
16-406-012	Do all apricot varieties mature in the same way?
16-406-015	What is considered "damage" and "serious damage" to apricots?
16-406-020	What tolerances apply to apricots?
16-406-025	How are apricot tolerances applied to individual samples?

- 16-406-030 What marking and packing requirements apply to apricots?
- 16-406-060 What grades apply to apricots?

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 16-406-040 Culls for fresh market. [Order 1015, Regulation D, filed 4/29/66; Order 771, effective 4/28/58.] Repealed by 05-12-036, filed 5/25/05, effective 6/25/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
- 16-406-050 Definition of terms. [Statutory Authority: Chapter 15.17 RCW, 99-17-003, § 16-406-050, filed 8/4/99, effective 9/4/99; Order 1015, Regulation E, filed 4/29/66; Order 771, effective 4/28/58.] Repealed by 05-12-036, filed 5/25/05, effective 6/25/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.

WAC 16-406-005 What definitions are important to understanding this chapter? The following definitions are important to this chapter:

"Aggregate" means that injury areas on an apricot's surface may be combined into one circular area with a diameter equal to the maximum diameter specified for the particular injury.

"Damage" means an injury to an apricot that is readily apparent during grading and handling.

"Department" means the Washington state department of agriculture.

"Diameter" means the greatest diameter, measured through the center of the apricot, at right angles to a line running from the stem to the blossom end.

(1) Apricots having a diameter of 1-1/2 inches or larger, ring measurement, may be considered "large."

(2) Apricots having a diameter of less than 1-1/2 inches may be considered "small."

"Director" means the director of the Washington state department of agriculture or the director's designee.

"Mature" means apricots have reached a growth stage that will insure the proper completion of the ripening process.

"Serious damage" means:

- (1) Immaturity; or
- (2) Any deformity; or
- (3) Injuries either causing skin breaks exceeding 3/8 of an inch in diameter or that seriously affects the apricot's appearance.

"Well formed" means having a shape that is characteristic of the variety.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-12-036, § 16-406-005, filed 5/25/05, effective 6/25/05.]

WAC 16-406-010 How do you determine the maturity of an apricot? The information in the following table must be considered when determining an apricot's maturity:

MATURITY CHARACTERISTIC	EXPLANATION
(1) Ambering	"Ambering," which many authorities on apricots recognize as an indicator of maturity, refers to the replacement of the green colored flesh immediately around the pit with an amber shade of flesh.

MATURITY CHARACTERISTIC	EXPLANATION
(2) Springiness	"Springiness" develops in connection with the separation of the flesh from the pit. It is an indication that the apricot is reaching proper tree maturity for picking for fresh shipment. Springiness may be detected by: •External pressure on the apricot; or •Cutting the apricot in half at right angles to the longitudinal axis and noting how one-half or both halves slip away from the pit.
(3) Taste	On a tree whose fruit is ready for harvest for fresh shipment, it is quite common to find apricots that are fairly palatable because they have lost much of their green taste. However, in using this test, do not be misled by apricots that, because of worm infestation, may be maturing abnormally.
(4) Separation of fruit from the stem	The way apricots separate from their stems is an indication of their maturity. For example, immature apricots tend to tear the adjacent skin and flesh more than apricots that are near proper maturity.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-12-036, § 16-406-010, filed 5/25/05, effective 6/25/05.]

WAC 16-406-012 Do all apricot varieties mature in the same way? Not all varieties of apricots mature in the same way. The varieties listed in the following table have not reached a stage of maturity that will insure a proper completion of the ripening process until they have developed a characteristic yellow color (shades Nos. 3 or 4 on U.S. standard ground color chart) over the minimum surface area shown:

APRICOT VARIETY	MINIMUM YELLOW SURFACE AREA STATED AS A PERCENTAGE OF AN APRICOT'S TOTAL SURFACE AREA
Moorpark	20%
Gilbert or Newcastle	50%
Tilton	40%
Blenheim	40%
Royal	40%

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-12-036, § 16-406-012, filed 5/25/05, effective 6/25/05.]

WAC 16-406-015 What is considered "damage" and "serious damage" to apricots? The following tables explain the differences between "damage" and "serious damage" as applied to apricots:

Table 1
"Damage" and "Serious Damage" for All Varieties of Apricots **except** the Riland Variety

Except for the Riland variety, the following are considered damage :	Except for the Riland variety, the following are considered serious damage :
(1) Well-healed growth cracks over 3/8 of an inch in length.	(1) Well-healed growth cracks that are more than 1/2 inch in length.
(2) Punctures over 3/16 of an inch in diameter.	(2) Any deformity or injury causing the skin to break more than 3/8 of an inch in diameter or which seriously affects the apricot's appearance.
(3) Stem pulls over 3/8 of an inch in diameter.	
(4) Smooth shallow limb rubs more than 1/4 of an inch in diameter.	
(5) Russeting affecting more than ten percent of the apricot's surface.	
(6) Bruises exceeding five percent of the apricot's surface.	(3) Bruises exceeding ten percent of the surface of the apricot.
(7) Hail marks that are:	(4) Hail marks that are more than:
(a) Not shallow and superficial; or	(a) 3/16 of an inch deep; or
(b) More than 3/8 of an inch in diameter in the aggregate; or	(b) 1/2 of an inch in diameter in the aggregate; or
(c) More than 1/8 inch in diameter when the skin has been broken.	(c) 1/2 inch in diameter when the skin has been broken.

Table 2
"Damage" and "Serious Damage" for the Riland Variety of Apricots

For the Riland variety, the following are considered damage :	For the Riland variety, the following are considered serious damage :
(1) Growth cracks exceeding 3/8 inches in length.	(1) Growth cracks that are not well healed and are more than 1/2 inch in length.
(2) Punctures exceeding 1/4 of an inch in diameter.	
(3) Stem pulls exceeding 1/2 inch in diameter.	
(4) Smooth shallow limb rubs more than 1/4 of an inch in diameter.	
(5) Russeting affecting more than ten percent of the apricot's surface.	
(6) Bruises exceeding five percent of the apricot's surface.	(2) Bruises exceeding ten percent of the surface of the apricot.
(7) Hail marks that are:	(3) Hail marks that are more than:
(a) Not shallow and superficial; or	(a) 3/16 of an inch deep; or

For the Riland variety, the following are considered damage :	For the Riland variety, the following are considered serious damage :
(b) More than 3/8 of an inch in diameter in the aggregate; or	(b) 1/2 of an inch in diameter in the aggregate; or
(c) More than 1/8 inch in diameter when the skin has been broken.	(c) 1/2 inch in diameter when the skin has been broken.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-20-074, § 16-406-015, filed 10/4/05, effective 11/4/05; 05-12-036, § 16-406-015, filed 5/25/05, effective 6/25/05.]

WAC 16-406-020 What tolerances apply to apricots?

(1) To allow for variations incident to proper grading and handling, the following tolerances apply to apricots:

(a) No more than ten percent of the apricots in any lot may be below grade requirements.

(b) Serious damage by insects must affect no more than five percent of the apricots in any lot.

(c) No more than one percent must be affected by decay or internal breakdown.

(d) In addition, for Washington No. 1 grade, no more than ten percent, by count, of the apricots in any lot may be damaged (but not seriously damaged) by bruising.

(2) When applying the tolerances in subsection (1) of this section to the Washington combination grade:

(a) No part of any tolerance must be used to reduce the percentage of Washington No. 1 apricots required for the combination grade.

(b) However, individual containers may contain forty percent Washington No. 1 grade apricots if the entire lot averages fifty percent.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-12-036, § 16-406-020, filed 5/25/05, effective 6/25/05. Statutory Authority: Chapter 15.17 RCW. 99-17-003, § 16-406-020, filed 8/4/99, effective 9/4/99; Order 1015, Regulation B, filed 4/29/66; Order 771, effective 4/28/58.]

WAC 16-406-025 How are apricot tolerances applied to individual samples? If the averages for the entire lot are within the tolerances specified for the grade, the contents of individual samples are subject to the following limitations:

Package Weight and/or Apricot Grade	With a Tolerance of:	Individual Sample in Any Lot:	Defects Allowed in a Sample
(1) Packages containing more than ten pounds	Ten percent or more	Must have no more than one and one-half times the tolerance specified	No more than one apricot affected by decay or internal breakdown is permitted in any sample.
(2) Packages containing more than ten pounds	Less than ten percent	Must have no more than double the tolerance specified	No more than one apricot affected by decay or internal breakdown is permitted in any sample.
(3) Washington No. 1 grade packages containing ten pounds or less	Ten percent or less	May have more than three times the tolerances specified	At least one defective apricot may be permitted in any sample and one apricot or more than six percent (whichever is the larger amount) may be affected by decay or internal breakdown.
(4) Washington No. 2 grade packages containing ten pounds or less	Ten percent or less	May have more than three times the tolerances specified	N/A

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-12-036, § 16-406-025, filed 5/25/05, effective 6/25/05; 03-24-008, § 16-406-025, filed 11/20/03, effective 12/21/03. Statutory Authority: Chapter 15.17 RCW. 99-17-003, § 16-406-025, filed 8/4/99, effective 9/4/99.]

WAC 16-406-030 What marking and packing requirements apply to apricots?

Note: The marking requirements in this section do not apply to apricots being sold or shipped to canneries.

(1) When a numerical count is used to pack apricots, the apricots in any container must not vary more than one-quarter inch in diameter.

(2) To allow for variations incident to proper sizing, no more than ten percent, by count, of the apricots in any package may be below the specified minimum size.

(3) Numerical count may be used to determine apricot grades.

(4) When apricots are prepared for market and/or offered for sale in containers (either open or closed), the following information must be clearly stamped on each container:

- (a) Variety;
- (b) Grade;
- (c) Packer's, grower's or shipper's name and address; and
- (d) Count; or
- (e) Net weight and minimum diameter.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-12-036, § 16-406-030, filed 5/25/05, effective 6/25/05. Statutory Authority: Chapter 15.17 RCW. 99-17-003, § 16-406-030, filed 8/4/99, effective 9/4/99; Order 1015, Regulation C, filed 4/29/66; Order 771, effective 4/28/58.]

WAC 16-406-060 What grades apply to apricots?

The following table identifies apricot grades and describes their characteristics:

WASHINGTON APRICOT GRADES	CHARACTERISTICS
(1) Washington No. 1	Washington No. 1 grade apricots consist of apricots of one variety that are: <ul style="list-style-type: none"> •Mature but not soft •Not overripe or shriveled •Well formed •Visibly clean

WASHINGTON APRICOT GRADES	CHARACTERISTICS
	<ul style="list-style-type: none"> •Free from decay and worm holes •Free from damage caused by dirt, limb rubs, growth cracks, bruises, scale, hail, disease, insects or mechanical or other means. (See tolerances WAC 16-407-060.)
(2) Washington No. 2	Washington No. 2 grade apricots consist of apricots of one variety that are: <ul style="list-style-type: none"> •Mature but not soft •Not overripe or shriveled •Fairly clean •Free from decay and worm holes •Free from serious damage caused by growth cracks, bruises, hail, insect pests, mechanical or other means. (See tolerances WAC 16-407-060.)
(3) Washington combination	<ul style="list-style-type: none"> •Washington combination grade consists of a combination of Washington No. 1 and Washington No. 2 grade apricots. •Washington combination grade apricots may be packed. •When packed, at least fifty percent of the apricots in any container must meet the requirements of Washington No. 1 grade. (See tolerances WAC 16-407-060.)

WASHINGTON APRICOT GRADES	CHARACTERISTICS
(4) Culls	<ul style="list-style-type: none"> •Culls consist of apricots that are immature or seriously damaged by growth cracks, hail, insect pests, mechanical or other means. (See marking and packing requirements WAC 16-406-030.) •Cull apricots for fresh market must be clearly marked with the word CULLS, in large letters at least two inches high, on closed type of containers.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-12-036, § 16-406-060, filed 5/25/05, effective 6/25/05; Order 1015, Regulation A, filed 4/29/66; Order 771, effective 4/28/58.]

Chapter 16-409 WAC WASHINGTON STANDARDS FOR ASPARAGUS

WAC

16-409-005	Must all Washington fresh asparagus comply with Washington state standards?
16-409-015	What definitions are important to this chapter?
16-409-020	What standards apply to all asparagus marketed within Washington state?
16-409-022	What grades are used to identify asparagus in Washington state?
16-409-024	What are the size requirements for Washington asparagus grades?
16-409-026	Does the department adopt U.S. standards for fresh asparagus as Washington state standards?
16-409-030	What tolerances are adopted for Washington asparagus?
16-409-035	How does the department apply its asparagus tolerances during an inspection?
16-409-065	What requirements apply to the containers used to market fresh asparagus?
16-409-070	What marking requirements apply to fresh asparagus containers?

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-409-060	Washington standards—Size designations. [Statutory Authority: Chapter 15.17 RCW. 97-01-081 (Order 6008), § 16-409-060, filed 12/17/96, effective 1/17/97; 85-07-028 (Order 1848), § 16-409-060, filed 3/15/85; 83-06-049 (Order 1787), § 16-409-060, filed 3/1/83; Order 795, Regulation 2(7), effective 2/16/60.] Repealed by 05-10-092, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
16-409-075	Exemption. [Statutory Authority: Chapter 15.17 RCW. 97-01-081 (Order 6008), § 16-409-075, filed 12/17/96, effective 1/17/97; 85-07-028 (Order 1848), § 16-409-075, filed 3/15/85; 83-06-049 (Order 1787), § 16-409-075, filed 3/1/83.] Repealed by 05-10-092, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
16-409-085	Adoption of United States standards as Washington state standards. [Statutory Authority: Chapter 15.17 RCW. 85-07-028 (Order 1848), § 16-409-085, filed 3/15/85; 83-06-049 (Order 1787), § 16-409-085, filed 3/1/83.] Repealed by 05-10-092, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.

WAC 16-409-005 Must all Washington fresh asparagus comply with Washington state standards? The following table explains which Washington fresh asparagus is exempt from some of the requirements of this chapter:

[2006 WAC Supp—page 46]

If an individual shipment of fresh Washington asparagus:	Then the shipment is exempt from the requirements in:
(1) Consists of asparagus for home use and not for resale; and	• WAC 16-409-020 through 16-409-060;
(2) Does not exceed two hundred fifty pounds net weight.	• WAC 16-409-065 (2), (3), (4), (5), and (7); and
	• WAC 16-409-070.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-10-092, § 16-409-005, filed 5/4/05, effective 6/4/05.]

WAC 16-409-015 What definitions are important to this chapter? The following definitions are important to this chapter:

"Badly misshapen" means the stalk is so badly flattened, crooked or otherwise so badly deformed that its appearance is seriously affected.

"Clean" means the asparagus is free from excessive dirt, dust, residue or foreign matter.

"Damage" means any defect or combination of defects that materially detract from the appearance, edible quality or marketing quality of the stalk.

"Department" means the Washington state department of agriculture (WSDA).

"Diameter" means the greatest thickness of the stalk measured at a point approximately one inch from the butt.

"Director" means the director of the Washington state department of agriculture or the director's designee.

"Fairly uniform in length" means the stalks within a container must not vary in length more than one and one-half inches.

"Fairly well trimmed" means that:

(1) At least one-third of the butt of the stalk is smoothly trimmed in a plane approximately parallel to the bottom of the container; and

(2) The butt is not badly stringy or frayed.

"Field container" means an open lug made of wood, plastic, or similar material that is repetitively used for field harvesting.

"Fresh" means that the stalk is not limp or flabby.

"Fresh asparagus" means asparagus marketed by lot for fresh consumption.

"Green" means the portion of the stalk having green, purplish-green or greenish-purple color with purple at the tip.

"Lot" means any number of containers of fresh asparagus offered as a unit for inspection, sale, or shipment.

"Serious damage" means any defect or combination of defects that seriously detract from the appearance, edible quality or marketing quality of the stalk.

"Shipment" means any number of containers of fresh asparagus transported from the production area by a single conveyance.

"Well trimmed" means that:

(1) At least two-thirds of the butt of the stalk is smoothly trimmed in a plane approximately parallel to the bottom of the container; and

(2) The butt is not stringy or frayed.

"White" means the portion of the stalk near the butt that is white or light purple over white in color. The white is mea-

sured from the extreme tip of the butt to the point where the green color begins.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-10-092, § 16-409-015, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapter 15.17 RCW. 85-07-028 (Order 1848), § 16-409-015, filed 3/15/85; 83-06-049 (Order 1787), § 16-409-015, filed 3/1/83.]

WAC 16-409-020 What standards apply to all asparagus marketed within Washington state? Any lot of fresh asparagus, including "culls," marketed within Washington state must have no more than ten percent of the stalks that:

- (1) Have white in excess of two inches; and
- (2) Are less than 4/16 inch in diameter.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-10-092, § 16-409-020, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapter 15.17 RCW. 97-05-054 (Order 6015), § 16-409-020, filed 2/19/97, effective 3/22/97; 97-01-081 (Order 6008), § 16-409-020, filed 12/17/96, effective 1/17/97; 85-07-028 (Order 1848), § 16-409-020, filed 3/15/85; 83-06-049 (Order 1787), § 16-409-020, filed 3/1/83; Order 795, Regulation 2(1), (2), effective 2/16/60.]

WAC 16-409-022 What grades are used to identify asparagus in Washington state? (1) The following table identifies and describes the asparagus grades used in Washington state:

Washington Asparagus Grades:					
Stalk Characteristics:	"Extra Fancy Grade Asparagus"	"Extra Fancy Grade Asparagus Tips"	"Fancy Grade Asparagus"	"Consumer Pack Asparagus"	"Culls"
Stalks must be:					
(a) Clean;	Yes	Yes	Yes	Yes	No
(b) Fresh;	Yes	Yes	Yes	Yes	No
(c) Fairly uniform in length;	Yes	Yes	Yes	Yes	No
(d) Well trimmed;	Yes	Yes	No	No	No
(e) Fairly well trimmed;	No	No	Yes	Yes	No
(f) Fairly straight;	Yes	Yes	No	Yes	No
(g) Not wilted;	Yes	Yes	Yes	Yes	No
(h) Not badly misshapen;	No	No	Yes	No	No
(i) Free from decay;	Yes	Yes	Yes	Yes	No
(j) Free from damage caused by spreading or broken tips, dirt, disease, insects, or mechanical or other means;	Yes	Yes	Yes	Yes	No
(k) At least eighty-five percent green in color;	Yes	No	Yes	Yes	No
(l) All green.	No	Yes	No	No	No

(2) "Culls" describes asparagus that:

- (a) Is not graded in conformity with Washington extra fancy, Washington extra fancy tips, Washington fancy, Washington consumer pack, or U.S. No. 1, or U.S. No. 2; and
- (b) Must not be marketed if more than ten percent by count of the stalks show white in excess of two inches.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-10-092, § 16-409-022, filed 5/4/05, effective 6/4/05.]

WAC 16-409-024 What are the size requirements for Washington asparagus grades? The following table identifies asparagus size requirements by Washington grades:

Washington Asparagus Grades	Stalks within individual containers must meet one of the following designated sizes:	Grade lots must be designated as:	Ninety percent, by count, of the stalks in any lot must conform to the diameters for such designations:
"Extra Fancy Grade Asparagus"	Jumbo	Washington extra fancy jumbo or Washington jumbo	Washington extra fancy jumbo or Washington jumbo must have stalks at least 13/16 inch in diameter.
	Large	Washington extra fancy large or Washington large	Washington extra fancy large or Washington large must have stalks at least 7/16 inch in diameter.
	Standard	Washington extra fancy standard or Washington standard	Washington extra fancy standard or Washington standard must have stalks at least 6/16 inch in diameter.
"Extra Fancy Grade Asparagus Tips"	Jumbo	Washington extra fancy tips jumbo	Washington extra fancy tips jumbo must be 13/16 inch in diameter or larger.
	Large	Washington extra fancy tips large	Washington extra fancy tips large must be 7/16 inch in diameter or larger.

Washington Asparagus Grades	Stalks within individual containers must meet one of the following designated sizes:	Grade lots must be designated as:	Ninety percent, by count, of the stalks in any lot must conform to the diameters for such designations:
	Standard	Washington extra fancy tips standard	Washington extra fancy tips standard must be 6/16 inch in diameter or larger.
	Small	Washington extra fancy tips small	Washington extra fancy tips small must have a diameter of at least 4/16 inch.
"Fancy Grade Asparagus"	Small	Minimum diameter; or Washington fancy small or Washington small	Washington fancy grade asparagus lots must be designated by minimum diameter: However, when at least ninety percent, by count, of the stalks in any lot are at least 4/16 inch in diameter, the lot may be designated as Washington fancy small or Washington small.
"Washington consumer pack"	N/A	Washington consumer pack	Washington consumer pack lots must be designated by minimum diameter and stalks must be at least 4/16 inch in diameter.
"U.S. No. 1 grade"	N/A	Minimum diameter; or	N/A
	Jumbo	Washington jumbo	U.S. No. 1 grade jumbo must have stalks at least 13/16 inch in diameter.
	Large	Washington large	U.S. No. 1 grade large must have stalks at least 7/16 inch in diameter.
	Standard	Washington standard	U.S. No. 1 grade standard must have stalks at least 6/16 inch in diameter.
"U.S. No. 2 grade"	N/A	Minimum diameter; or	N/A
	Small	Washington small	U.S. No. 2 grade small must have stalks at least 4/16 inch in diameter.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-10-092, § 16-409-024, filed 5/4/05, effective 6/4/05.]

WAC 16-409-026 Does the department adopt U.S. standards for fresh asparagus as Washington state standards? (1) In addition to the Washington state fresh asparagus standards contained in this chapter, the Washington state department of agriculture has adopted, as Washington state standards, modified United States fresh asparagus standards for U.S. grades No. 1 and No. 2.

(2) The department's modifications to the U.S. standards are as follows:

(a) U.S. No. 1 must be at least 6/16 inch in diameter and must meet or exceed Washington extra fancy grade requirements.

(b) U.S. No. 2 must be at least 4/16 inch in diameter and must meet or exceed Washington fancy grade requirements.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-10-092, § 16-409-026, filed 5/4/05, effective 6/4/05.]

WAC 16-409-030 What tolerances are adopted for Washington asparagus? The following table identifies and explains the tolerances adopted for Washington asparagus:

Washington Asparagus Grades to Which Tolerances Apply	Defect, color and trim tolerances adopted for Washington asparagus	Diameter and length tolerances adopted for Washington asparagus
Washington extra fancy Washington extra fancy tips Washington fancy Washington consumer pack	To allow for variations incident to proper grading and handling, the following tolerances are adopted:	To allow for variations in diameter and length incident to proper sizing, the following tolerances are adopted:
	(1) Ten percent, by count, for stalks failing to meet grade requirements other than for trim and color, including no more than one percent for decayed stalks.	(1) Ten percent, by count, for stalks failing to meet the required minimum and maximum diameter defined in WAC 16-409-015 ("fairly uniform in length").

Washington Asparagus Grades to Which Tolerances Apply	Defect, color and trim tolerances adopted for Washington asparagus	Diameter and length tolerances adopted for Washington asparagus
	(2) An additional ten percent, by count, for stalks having less than the required amount of green color.	(2) Ten percent, by count, for stalks failing to meet the required length as established in WAC 16-409-022.
	(3) An additional ten percent, by count, for stalks not meeting trim requirements.	

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-10-092, § 16-409-030, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapter 15.17 RCW. 97-01-081 (Order 6008), § 16-409-030, filed 12/17/96, effective 1/17/97; 85-07-028 (Order 1848), § 16-409-030, filed 3/15/85; 83-06-049 (Order 1787), § 16-409-030, filed 3/1/83; Order 795, Regulation 2(3), (4), effective 2/16/60.]

WAC 16-409-035 How does the department apply its asparagus tolerances during an inspection? (1) If the averages for an entire lot are within the tolerances specified in WAC 16-409-030, the limitations in this section, based upon sample inspections, apply to the contents of individual containers in the lot.

(2) Individual containers:

(a) May contain one decayed or otherwise defective stalk, one poorly trimmed stalk, one poorly colored, and one off-size stalk.

(b) Must have no more than one and one-half times the tolerance specified when a tolerance is ten percent or more.

(c) Must have no more than double the tolerance specified when a tolerance is less than ten percent.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-10-092, § 16-409-035, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapter 15.17 RCW. 85-07-028 (Order 1848), § 16-409-035, filed 3/15/85; 83-06-049 (Order 1787), § 16-409-035, filed 3/1/83.]

WAC 16-409-065 What requirements apply to the containers used to market fresh asparagus? The following table identifies and explains the requirements that apply to the containers used to market fresh asparagus:

Asparagus Grades:	Container Requirements:
(1) All fresh asparagus:	Must be marketed in containers that are clean and free from dirt, trash, and visible contaminants.
(2) All fresh asparagus:	Must not be marketed in field containers.
(3) For testing or trial marketing purposes, the director:	May allow the use of any experimental containers not specified in this table.
(4) Washington extra fancy, Washington extra fancy tips, Washington fancy, U.S. No. 1, and U.S. No. 2 grades of fresh asparagus:	Must be marketed in containers with moisture pads.
(5) Washington consumer pack grade of fresh asparagus:	Must be marketed either in: <ul style="list-style-type: none"> (a) Pyramid type containers with moisture pads; or (b) Fiberboard or wooden "western lug" containers with: <ul style="list-style-type: none"> (i) Inside dimensions of approximately seven inches, by eleven and one-half inches, by eighteen inches; or (ii) A capacity of thirteen hundred and fifty to fifteen hundred and fifty cubic inches. (iii) Western lugs must contain at least twenty pounds net weight.
(6) Culls;	Must be marketed in wooden pyramid containers with moisture pads.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-10-092, § 16-409-065, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapter 15.17 RCW. 97-01-081 (Order 6008), § 16-409-065, filed 12/17/96, effective 1/17/97; 85-07-028 (Order 1848), § 16-409-065, filed 3/15/85; 83-06-049 (Order 1787), § 16-409-065, filed 3/1/83.]

WAC 16-409-070 What marking requirements apply to fresh asparagus containers? (1) All required markings must be placed on one end of the container, but may be duplicated on the opposite end.

(2) Containers must be conspicuously and legibly marked with the:

(a) Name and address of the grower, packer, or distributor;

(b) Grade;

(c) Net weight; and

(d) Size designation or diameter size as defined in WAC 16-409-024.

(3) The grade and size designation required in subsection (2) of this section must be marked in letters at least 3/8 inch in height.

(4) The following abbreviations of grade and size designation are acceptable:

(a) Washington as Wash. or WA

(b) Extra fancy as ex fcy or extra fcy

(c) Fancy as fcy

(d) Large as lge.

(e) Standard as std.

(5) The use of U.S. No. 1 or U.S. No. 2 grade markings is permissible subject to the requirements in WAC 16-409-026.

(6) If culls are marketed:

(a) The word "culls" must be:

(i) Conspicuously and legibly marked in letters at least one inch in height; and

(ii) Predominant in size over any other markings on the container.

(b) They must be marketed only in wooden pyramid containers with moisture pads.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-10-092, § 16-409-070, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapter 15.17 RCW. 97-01-081 (Order 6008), § 16-409-070, filed 12/17/96, effective 1/17/97; 85-07-028 (Order 1848), § 16-409-070, filed 3/15/85; 83-06-049 (Order 1787), § 16-409-070, filed 3/1/83; Order 795, Regulation 3, effective 2/16/60.]

Chapter 16-414 WAC

WASHINGTON STANDARDS FOR CHERRIES

WAC

16-414-005	What definitions are important to this chapter?
16-414-010	What are Washington No. 1 grade and Northwest No. 1 grade sweet cherries?
16-414-011	What size requirements apply to sweet cherries?
16-414-012	What tolerances apply to Washington No. 1 and Northwest No. 1 grade sweet cherries at their shipping point and en route or at their destination?
16-414-014	What tolerances apply to sweet cherries that are "off-size"?
16-414-016	Does Washington state adopt the U.S. standards for grades of sweet cherries?
16-414-020	How are individual sample tolerances applied to Washington No. 1 and Northwest No. 1 grade sweet cherries?
16-414-045	What specific defects are considered damage to Washington standards?
16-414-065	What specific defects are considered "serious damage" to Washington standards?
16-414-085	What requirements apply to containers used to ship sweet cherries?
16-414-086	Can the director grant exemptions to the container requirements listed in WAC 16-414-085?
16-414-090	What marking requirements apply to sweet cherry containers?
16-414-105	What definitions are important to sulphured cherries?
16-414-107	What are the Washington state grades for sulphured cherries?
16-414-108	What are the tolerances for Washington sulphured cherries?
16-414-110	What are the size requirements for all grades of Washington sulphured whole cherries?
16-414-120	What are the tolerance requirements for the certification of lots of Washington No. 1 and Washington No. 2 grade sulphured cherries?
16-414-125	What tolerances apply to sulphured pitted cherries?
16-414-145	What specific defects are considered damage to Washington standards for sulphured cherries?
16-414-155	What specific defects are considered serious damage to Washington standards for sulphured cherries?

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-414-015	Northwest No. 1 grade and tolerances defined. [Statutory Authority: Chapter 15.17 RCW. 95-13-038, § 16-414-015, filed 6/14/95, effective 7/15/95.] Repealed by 05-12-037, filed 5/25/05, effective 6/25/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
16-414-030	Definitions. [Statutory Authority: Chapter 15.17 RCW. 95-13-038, § 16-414-030, filed 6/14/95, effective 7/15/95; 78-04-060 (Order 1550), § 16-414-030, filed 3/31/78.] Repealed by 05-12-037, filed 5/25/05, effective 6/25/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
16-414-040	Damage. [Statutory Authority: Chapter 15.17 RCW. 78-04-060 (Order 1550), § 16-414-040, filed 3/31/78.] Repealed by 05-12-037, filed 5/25/05, effective 6/25/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
16-414-050	Diameter. [Statutory Authority: Chapter 15.17 RCW. 78-04-060 (Order 1550), § 16-414-050, filed 3/31/78.] Repealed by 05-12-037, filed 5/25/05, effective 6/25/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
16-414-060	Serious damage. [Statutory Authority: Chapter 15.17 RCW. 78-04-060 (Order 1550), § 16-414-060, filed

3/31/78.] Repealed by 05-12-037, filed 5/25/05, effective 6/25/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.

16-414-070 Permanent defects. [Statutory Authority: Chapter 15.17 RCW. 78-04-060 (Order 1550), § 16-414-070, filed 3/31/78.] Repealed by 05-12-037, filed 5/25/05, effective 6/25/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.

16-414-080 Condition defects. [Statutory Authority: Chapter 15.17 RCW. 78-04-060 (Order 1550), § 16-414-080, filed 3/31/78.] Repealed by 05-12-037, filed 5/25/05, effective 6/25/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.

16-414-095 Adoption of United States standards as state standards. [Statutory Authority: Chapter 15.17 RCW. 95-13-038, § 16-414-095, filed 6/14/95, effective 7/15/95.] Repealed by 05-12-037, filed 5/25/05, effective 6/25/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.

16-414-100 Grades. [Statutory Authority: Chapter 15.17 RCW. 80-08-010 (Order 1708), § 16-414-100, filed 6/20/80.] Repealed by 05-12-037, filed 5/25/05, effective 6/25/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.

16-414-130 Definitions. [Statutory Authority: Chapter 15.17 RCW. 80-08-010 (Order 1708), § 16-414-130, filed 6/20/80.] Repealed by 05-12-037, filed 5/25/05, effective 6/25/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.

WAC 16-414-005 What definitions are important to this chapter? "Clean" means cherries are practically free from dirt, dust, spray residue, or other foreign material. For example, clean means the product is practically free from leaves, fruit spurs, bark, twigs, dirt or foreign material.

"Condition defects" means defects that may develop or change during shipment or storage. Condition defects include, but are not limited to, decayed or soft cherries and such other factors as pitting, shriveling, sunken areas, brown discoloration and bruising that, because of its location appears to have occurred after packing.

"Damage" means any injury or specific defect described in WAC 16-414-045 or any equally objectionable variation of those defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible quality or marketing quality of the fruit.

"Department" means the Washington state department of agriculture (WSDA).

"Diameter" means the greatest dimension measured at right angles to a line from the stem to the blossom end of the cherry.

"Director" means the director of the Washington state department of agriculture or the director's designee.

"Face packed" means the cherries in the top layer of any container are placed so the stem ends are pointing downward toward the bottom of the container.

"Fairly well colored" means that at least ninety-five percent of the surface of the cherry shows characteristic color for mature cherries of the variety.

"Firm" means the cherries:

- (1) Possess a firm, fleshy texture;
- (2) Retain their approximate original shape;
- (3) Are not shriveled; and
- (4) Do not show more than slight collapsed areas of flesh.

"Mature" means cherries have reached the stage of growth that will insure the proper completion of the ripening process.

"Permanent defects" means defects that are not subject to change during shipping or storage. Permanent defects include, but are not limited to, factors of shape, scarring, skin

breaks, injury caused by hail or insects, and mechanical injury that, because of its location, appears to have occurred before shipment.

"Off-size" means a cherry whose diameter fails to meet a designated size when measured at right angles to a line from its stem to its blossom end.

"Serious damage" means any specific defect described in WAC 16-414-065 or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects that seriously detracts from the appearance, edible quality or marketing quality of cherries.

"Shipping point" means:

(1) The point of origin of the shipment in the producing area or at the port of loading; or

(2) The port of entry into the United States in the case of shipments from outside the continental United States.

"Similar varietal characteristics" means the cherries in any container are similar in color and shape.

"Well formed" means a cherry has the normal shape characteristic of the variety. Mature well-developed doubles are considered well formed if the halves are approximately evenly formed with a variation of no more than 2/64 of an inch.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-12-037, § 16-414-005, filed 5/25/05, effective 6/25/05.]

WAC 16-414-010 What are Washington No. 1 grade and Northwest No. 1 grade sweet cherries? The following table describes the characteristics of Washington No. 1 grade and Northwest No. 1 grade sweet cherries:

Washington No. 1 Grade Sweet Cherries	Northwest No. 1 Grade Sweet Cherries
Washington No. 1 sweet cherries must meet the following requirements:	Northwest No. 1 sweet cherries must meet the:
(1) Similar varietal characteristics;	(1) Quality requirements of Washington No. 1 sweet cherries listed in this table; and
(2) Mature;	(2) Size requirements listed in WAC 16-414-011.
(3) Not soft overripe or shriveled;	
(4) Fairly well colored;	
(5) Well formed;	
(6) No underdeveloped doubles;	
(7) Clean;	
(8) Free from decay, insect larvae or holes caused by them and sunscald; and	
(9) Free from damage by any other cause.	

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-12-037, § 16-414-010, filed 5/25/05, effective 6/25/05. Statutory Authority: Chapter 15.17 RCW. 95-13-038, § 16-414-010, filed 6/14/95, effective 7/15/95; 78-04-060 (Order 1550), § 16-414-010, filed 3/31/78.]

WAC 16-414-011 What size requirements apply to sweet cherries? (1) The minimum diameter of each cherry must be at least 54/64 inch.

(2) The maximum diameter of the cherries in any lot may be specified according to the facts.

(3) When containers of cherries are marked with a row count/row size designation, the row count/row size marked must comply with the corresponding minimum diameter size as shown in the following table:

If containers of cherries are marked with the following row count/row size designations:	Then minimum diameter size of the cherries in inches must be:
8	84/64
8 1/2	79/64
9	75/64
9 1/2	71/64
10	67/64
10 1/2	64/64
11	61/64
11 1/2	57/64
12	54/64

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-12-037, § 16-414-011, filed 5/25/05, effective 6/25/05.]

WAC 16-414-012 What tolerances apply to Washington No. 1 and Northwest No. 1 grade sweet cherries at their shipping point and en route or at their destination? To allow for variations incident to proper grading and handling at the shipping point, en route or at their destination, the following tolerances, by count, are established for Washington No. 1 and Northwest No. 1 grade sweet cherries:

Washington No. 1 Grade Sweet Cherries	Northwest No. 1 Grade Sweet Cherries
(1) Tolerances applied at shipping point	(1) Tolerances applied at shipping point
(a) Eight percent for cherries that fail to meet the requirements for Washington No. 1 grade.	(a) Ten percent for cherries in any inspection lot that fail to meet the requirements for Northwest No. 1 grade.
(b) Of the total tolerance of eight percent, no more than four percent is allowed for defects causing serious damage.	(b) Of the total tolerance of ten percent, no more than five percent is allowed for defects causing serious damage.
(c) Of the four percent tolerance for serious damage defects, no more than one-half of one percent is allowed for cherries affected by decay.	(c) Of the five percent tolerance for serious damage defects, no more than one percent is allowed for cherries affected by decay.
	(d) The contents of individual samples or containers in any lot must not be limited to the percentage of grade defects discussed in WAC 16-414-020.

Washington No. 1 Grade Sweet Cherries	Northwest No. 1 Grade Sweet Cherries
(2) Tolerances applied en route or at destination	(2) Tolerances applied en route or at destination
(a) Twenty-four percent for cherries in any lot that fail to meet the requirements for Washington No. 1 grade.	(a) Twenty-four percent for cherries in any inspection lot that fail to meet the requirements for Northwest No. 1 grade.
(b) Of the total tolerance of twenty-four percent, no more than eight percent is allowed for cherries that fail to meet the requirements for Washington No. 1 grade because of permanent defects.	(b) Of the total tolerance of twenty-four percent, no more than ten percent, by count, is allowed for cherries that fail to meet the requirements for Northwest No. 1 grade because of permanent defects.
(c) Of the total tolerance of twenty-four percent, no more than six percent is allowed for cherries that are seriously damaged, including no more than:	(c) Of the total tolerance of twenty-four percent, no more than seven percent, by count, is allowed for cherries that are seriously damaged, including no more than:
(i) Four percent for cherries seriously damaged by permanent defects; and (ii) Two percent for cherries affected by decay.	(i) Five percent for cherries seriously damaged by permanent defects; and (ii) Two percent for cherries affected by decay.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-12-037, § 16-414-012, filed 5/25/05, effective 6/25/05.]

WAC 16-414-014 What tolerances apply to sweet cherries that are "off-size"? To allow for variations in size incident to proper grading and handling, the following tolerances, by count, are established for off-size grade sweet cherries:

(1) No more than ten percent of the cherries in any inspection lot must measure less than 54/64 inches in diameter.

(2) Ten percent for cherries that fail to meet any specified maximum diameter when that maximum diameter is marked on the container or specified in terms of fractions of inches.

(3) When containers are marked with row count/row size or a lot is specified by row count/row size, no more than ten percent of the cherries in any inspection lot may fail to meet the corresponding diameter size listed in the table in WAC 16-414-011(3).

(4) When containers are marked with a "minimum diameter," no more than five percent of the cherries in the container may fail to meet the corresponding diameter.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-12-037, § 16-414-014, filed 5/25/05, effective 6/25/05.]

WAC 16-414-016 Does Washington state adopt the U.S. standards for grades of sweet cherries? In addition to the standards for sweet cherries contained in this chapter, the Washington state department of agriculture adopts the United States standards for grades of sweet cherries (effective May 7, 1971) as they apply to U.S. No. 1 grade cherries, except the

[2006 WAC Supp—page 52]

minimum size of cherries and tolerances for undersize cherries must meet the requirements for Washington No. 1 grade.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-12-037, § 16-414-016, filed 5/25/05, effective 6/25/05.]

WAC 16-414-020 How are individual sample tolerances applied to Washington No. 1 and Northwest No. 1 grade sweet cherries? Tolerances are applied to Washington No. 1 and Northwest No. 1 sweet cherries as follows:

(1) Individual samples must have no more than double the tolerances specified. However, if the averages for the entire lot are within the tolerances specified for the grade, at least two defective and two off-size specimens may be allowed in any sample.

(2) When containers are marked with row count/row size or when a lot is specified by row count/row size, the individual samples or containers must not be limited by the percentage of cherries that are smaller than the diameter corresponding to the particular row count/row size. However, no more than twenty percent, by count, of the cherries in any sample or container must measure less than 54/64 inches in diameter.

(3) When marked with minimum size, individual samples may have no more than double the tolerances specified.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-12-037, § 16-414-020, filed 5/25/05, effective 6/25/05. Statutory Authority: Chapter 15.17 RCW. 95-13-038, § 16-414-020, filed 6/14/95, effective 7/15/95; 78-04-060 (Order 1550), § 16-414-020, filed 3/31/78.]

WAC 16-414-045 What specific defects are considered damage to Washington standards? The defects listed in the following table are considered "damage":

DEFECT	DESCRIPTION
(1) Cracks within the stem cavity	Cracks within the stem cavity are considered damage when: <ul style="list-style-type: none"> • Deep or not well healed; or • The cherry's appearance is affected to a greater extent than a cherry that has a superficial well healed crack one-sixteenth inch in width extending one-half the greatest circumference of the stem cavity.
(2) Cracks outside of the stem cavity	Cracks outside of the stem cavity are considered damage when: <ul style="list-style-type: none"> • Deep or not well healed; or • The crack has weakened the cherry to the extent that it is likely to split or break in the process of proper grading, packing and handling; or • Materially affecting the cherry's appearance.
(3) Hail marks	Hail marks are considered damage when: <ul style="list-style-type: none"> • Deep or not well healed; or • The aggregate area exceeds the area of a circle three-sixteenths inch in diameter.

DEFECT	DESCRIPTION
(4) Evidence of insects	Evidence of insects is considered damage when: <ul style="list-style-type: none"> • Scale or more than one scale mark is present; or • Any insect materially affects the cherry's appearance.
(5) Limb rubs	Limb rubs are considered damage when they affect the cherry's appearance more than the amount of scarring that is permitted.
(6) Pulled stems	Pulled stems are considered damage when the skin or flesh is slightly torn.
(7) Russetting	Russetting is considered damage when affecting the cherry's appearance more than the amount of scarring permitted.
(8) Blemished	Any of the following blemishes are considered damage: <ul style="list-style-type: none"> • Bird pecks; • Sunburn; • Other blemishes or combinations of blemishes that materially affect the appearance of the cherry; or • Any cherry with flesh that is materially discolored.
(9) Scars	Scars are considered damage when: <ul style="list-style-type: none"> • Excessively deep or rough or dark colored and the aggregate area exceeds the area of a circle three-sixteenths inch in diameter; or • Smooth or fairly smooth, light colored and superficial and the aggregate area exceeds the area of a circle one-fourth inch in diameter.
(10) Skin breaks	Skin breaks are considered damage when: <ul style="list-style-type: none"> • Not well healed; or • The cherry's appearance is materially affected.
(11) Sutures	Sutures are considered damage when: <ul style="list-style-type: none"> • Excessively deep; or • Causing the cherry's shape to be less than well formed.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-12-037, § 16-414-045, filed 5/25/05, effective 6/25/05.]

WAC 16-414-065 What specific defects are considered "serious damage" to Washington standards? The defects listed in the following table are considered "serious damage":

DEFECT	DESCRIPTION
(1) Cracks	Cracks are considered serious damage if they are not well healed.
(2) Insect larvae or holes caused by them	The presence of insect larvae or holes caused by insect larvae is considered serious damage.

DEFECT	DESCRIPTION
(3) Pulled stems	Pulled stems are considered serious damage if they cause: <ul style="list-style-type: none"> • A more than slight tear in the cherry skin or flesh; or • The cherry to leak.
(4) Skin breaks	Skin breaks are considered serious damage if they are not well healed.
(5) Decay	Any sign of decay is considered serious damage.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-12-037, § 16-414-065, filed 5/25/05, effective 6/25/05.]

WAC 16-414-085 What requirements apply to containers used to ship sweet cherries? Except for varieties commonly known as "light sweet cherries," all sweet cherries must be placed in containers that meet the following requirements:

(1) The net weight of loose packed (jumble filled) cherries in any container must either be:

- (a) Twelve pounds or less; or
- (b) Twenty pounds or more.

(2) The net weight of face packed cherries in any container must either be:

- (a) Fifteen pounds; or
- (b) Twelve pounds or less.

(3) Containers with a net weight of twelve pounds or less may be packed together with like containers in a master-shipping container.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-12-037, § 16-414-085, filed 5/25/05, effective 6/25/05. Statutory Authority: Chapter 15.17 RCW. 95-13-038, § 16-414-085, filed 6/14/95, effective 7/15/95.]

WAC 16-414-086 Can the director grant exemptions to the container requirements listed in WAC 16-414-085?

(1) Upon the recommendation of the Washington State Horticultural Association's cherry committee, the director may waive the container requirements in WAC 16-414-085 and allow the use of experimental containers for the purpose of test or trial marketing.

(2) Cherries placed in experimental containers:

- (a) Must meet the quality requirements of Washington No. 1, U.S. No. 1, or Northwest No. 1 grade; and
- (b) At least ninety percent, by count, must measure at least 54/64 inches in diameter.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-12-037, § 16-414-086, filed 5/25/05, effective 6/25/05.]

WAC 16-414-090 What marking requirements apply to sweet cherry containers? (1) Containers must be conspicuously and legibly stamped with the:

(a) Name and the address of the grower, packer or shipper;

(b) Net weight; and

(c) True variety name or "sweet cherries."

(2) The containers may be marked with the grade name Washington No. 1, U.S. No. 1, or Northwest No. 1.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-12-037, § 16-414-090, filed 5/25/05, effective 6/25/05. Statutory Authority: Chapter 15.17 RCW. 95-13-038, § 16-414-090, filed 6/14/95, effective 7/15/95; 78-04-060 (Order 1550), § 16-414-090, filed 3/31/78.]

WAC 16-414-105 What definitions are important to sulphured cherries? "Damage" means any injury or specific defect described in WAC 16-414-145 or any equally objectionable variation of those defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible quality or marketing quality of the fruit.

"Fairly well bleached" means the cherries possess a reasonably uniform color typical of reasonably well bleached sulphured cherries for that variety.

"Pit" means an entire pit or portion of a pit that is attached to a sulphured cherry or located within the pit cavity.

"Properly matured" means that stage of ripeness when a cherry is ready for brining.

"Serious damage" means any injury that seriously affects the appearance or market quality of the product.

"Sulphured cherries" means properly matured whole cherries of similar varietal characteristics packed in a solution of sulphur dioxide of sufficient strength to preserve the cherries without adding hardening agents.

"Sulphured cherries with pits" means whole cherries, with or without stems, from which the pits have not been removed. If:

(1) Without stems, not more than twenty percent, by weight, of all the cherries may have the stems removed.

(2) With stems, not more than one-half of one percent, by weight, of all the cherries may have the stems attached.

"Sulphured cherries without pits" means whole cherries with or without stems from which the pits have been removed. If:

(1) Without stems (cocktail), not more than seven percent, by weight, of all the cherries may have the stems removed.

(2) With stems, not more than one-half of one percent, by weight, of all the cherries may have the stems attached.

"Unclassified cherries" means sulphured cherries that do not conform to the descriptions of "sulphured cherries with pits" or sulphured cherries without pits.

"Well bleached" means the cherries possess a practically uniform color that is typical of well bleached sulphured cherries for that variety.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-12-037, § 16-414-105, filed 5/25/05, effective 6/25/05.]

WAC 16-414-107 What are the Washington state grades for sulphured cherries? The following table lists and describes the various grades of Washington state sulphured cherries:

IF THE GRADE IS:	THEN THE CHERRIES MUST BE:
(1) Washington No. 1 grade sulphured whole cherries	<ul style="list-style-type: none"> • Properly matured; • Of similar varietal characteristics; • Clean; • Firm; • Well formed; • Well bleached; and • Free from damage caused by mechanical injury, surface discoloration, rain cracks, blemishes or other means.

IF THE GRADE IS:	THEN THE CHERRIES MUST BE:
(2) Washington No. 1 grade sulphured halved cherries	<ul style="list-style-type: none"> • Portions of sliced cherries with no particle smaller than an estimated one-third or larger than an estimated two-thirds of a whole cherry; • Properly matured; • Of similar varietal characteristics; • Clean; • Firm; • Well formed; • Well bleached; and • Free from damage caused by mechanical injury, surface discoloration, rain cracks, blemishes or other means.
(3) Washington No. 2 grade sulphured whole cherries	<ul style="list-style-type: none"> • Properly matured; • Of similar varietal characteristics; • Clean; • Fairly firm; • Well formed; • Fairly well bleached; and • Free from serious damage caused by mechanical injury, surface discoloration, rain cracks, blemishes or other means.
(4) Washington No. 2 grade sulphured halved cherries	<ul style="list-style-type: none"> • Properly matured cherries; • Of similar varietal characteristics; • Clean; • Fairly firm; • Well formed; • Fairly well bleached; and • Free from serious damage caused by mechanical injury, surface discoloration, rain cracks, blemishes or other means.
(5) Washington combination grade sulphured cherries	<ul style="list-style-type: none"> • A combination of Washington No. 1 and Washington No. 2 cherries of any style; and • Unless otherwise specified, packed in a lot that averages at least fifty percent Washington No. 1 quality cherries.
(6) Washington No. 3 grade sulphured cherries	<ul style="list-style-type: none"> • Cherries that fail to meet the requirements of the above grades; and • Practically free of stems, leaves, fruit spurs, bark, dirt or foreign material.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-12-037, § 16-414-107, filed 5/25/05, effective 6/25/05.]

WAC 16-414-108 What are the tolerances for Washington sulphured cherries? The following table describes the tolerances for various grades of Washington sulphured cherries:

IF THE GRADE IS:	THEN THE TOLERANCES ARE:
(1) Washington No. 1 grade sulphured whole cherries	<ul style="list-style-type: none"> At least ninety-five percent of the cherries of any lot must meet the requirements of "firm." In addition, not more than ten percent of the cherries of any lot may be below the remaining requirements of this grade, of which not more than one-half or five percent must be allowed for defects classified as serious damage.
(2) Washington No. 1 grade sulphured halved cherries	<ul style="list-style-type: none"> At least ninety-five percent of the cherries of any lot must meet the requirements of "firm." In addition, not more than ten percent of the cherries of any lot may be below the remaining requirements of this grade, of which not more than one-half or five percent must be allowed for defects classified as serious damage.
(3) Washington No. 2 grade sulphured whole cherries	<ul style="list-style-type: none"> At least ninety percent of the cherries of any lot must meet the requirements of "fairly firm." In addition, not more than ten percent of the cherries of any lot may be below the remaining requirements of this grade.
(4) Washington No. 2 grade sulphured halved cherries	<ul style="list-style-type: none"> At least ninety percent of the cherries of any lot must meet the requirements of "fairly firm." In addition, not more than ten percent of the cherries of any lot may be below the remaining requirements of this grade.
(5) Washington combination grade sulphured cherries	<ul style="list-style-type: none"> A tolerance of not more than ten percent is allowed for cherries that are below the requirements of Washington No. 2 grade. The tolerances for combination grade sulphured cherries are on a container basis. However, individual containers in any lot may vary from the specified tolerances, if the averages for the entire lot, based on sample inspections, are within the specified tolerances.

IF THE GRADE IS:	THEN THE TOLERANCES ARE:
	<ul style="list-style-type: none"> For the entire lot, no part of any tolerance must reduce the requirement that fifty percent of cherries in the combination must be of the higher grade. However, individual containers may have at least thirty-five percent of the higher grade or be more than twenty percent below the requirements of Washington No. 2 grade. When other combinations are specified, individual containers may not have more than fifteen percent less than the percentage specified of the higher grade or be more than twenty percent below the requirements of Washington No. 2 grade.
(6) Washington No. 3 grade sulphured cherries	There are no applicable tolerances for Washington No. 3 grade sulphured cherries.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-12-037, § 16-414-108, filed 5/25/05, effective 6/25/05.]

WAC 16-414-110 What are the size requirements for all grades of Washington sulphured whole cherries? (1) The following table lists the standard sizes for all grades of Washington whole sulphured cherries.

SIZE DESIGNATION	SIZE RANGE
Extra small	14 mm to and including 16 mm
Small	16 mm to and including 18 mm
Medium	18 mm to and including 20 mm
Large	20 mm to and including 22 mm
Extra large	22 mm and over

(2) The following tolerances are allowed:

(a) Five percent for cherries that fail to meet the specified minimum diameter; and

(b) Ten percent for cherries that fail to meet the specified maximum diameter.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-12-037, § 16-414-110, filed 5/25/05, effective 6/25/05. Statutory Authority: Chapter 15.17 RCW. 80-08-010 (Order 1708), § 16-414-110, filed 6/20/80.]

WAC 16-414-120 What are the tolerance requirements for the certification of lots of Washington No. 1 and Washington No. 2 grade sulphured cherries? (1) Tolerances for the certification of lots of Washington No. 1 or Washington No. 2 grades of sulphured cherries must be on a container basis.

(2) At least one-sixth of the individual containers in any lot may vary from the specified tolerances if the averages for the entire lot, based on sample inspection, are within the specified tolerances.

(3) For a tolerance of ten percent or more, individual containers in any lot may contain no more than one and one-half times the specified tolerance.

(4) For a tolerance of less than ten percent, individual containers in any lot may contain no more than double the specified tolerances.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-12-037, § 16-414-120, filed 5/25/05, effective 6/25/05. Statutory Authority: Chapter 15.17 RCW. 80-08-010 (Order 1708), § 16-414-120, filed 6/20/80.]

WAC 16-414-125 What tolerances apply to sulphured pitted cherries? The following tolerances apply to sulphured pitted cherries:

IF THE CHERRY SIZE IS:	THEN THE TOLERANCE IS:
(1) Extra small and small sizes	No more than two pits per each forty ounces of cherries
(2) Medium, large or mixed sizes	No more than one pit per each forty ounces of cherries
(3) Extra large size	No more than one pit per each sixty ounces of cherries

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-12-037, § 16-414-125, filed 5/25/05, effective 6/25/05.]

WAC 16-414-145 What specific defects are considered damage to Washington standards for sulphured cherries? The defects listed in the following table are considered "damage":

DEFECT	DESCRIPTION
(1) Mechanical injury	Any of the following mechanical injuries are considered damage: <ul style="list-style-type: none"> • Open pitter hole; or • Pitter hole where there is a material loss of flesh; or • Pitter tear or pitter tears; or • Other mechanical injuries that materially affect the appearance of the cherry.
(2) Surface discoloration	Surface discoloration for Washington No. 1 whole cherries is considered damage when any: <ul style="list-style-type: none"> • Light surface discoloration exceeds, in the aggregate, one-eighth of the cherry's surface; or • Dark surface discoloration exceeds, in the aggregate, the area of a circle three-sixteenths inches in diameter, but does not exceed, in the aggregate, one-eighth of the cherry's surface.
(3) Surface discoloration	Surface discoloration for Washington No. 1 halved cherries is considered damage when any: <ul style="list-style-type: none"> • Light surface discoloration exceeds, in the aggregate, one-eighth of the cherry's surface; or • Dark surface discoloration exceeds, in the aggregate, the area of a circle one-sixteenth inch in diameter.
(4) Rain cracks	Rain cracks on Washington No. 1 whole cherries are considered damage if: <ul style="list-style-type: none"> • In the stem basin and more than one-fourth inch in length; or

DEFECT	DESCRIPTION
	<ul style="list-style-type: none"> • Outside the stem basin and more than three-sixteenths of an inch in length, measured on the circumference.
(5) Rain cracks	Rain cracks on Washington No. 1 halved cherries are considered damage if: <ul style="list-style-type: none"> • In the stem basin and more than one-eighth inch in length; or • Outside the stem basin. (Note: No rain cracks are allowed outside the stem basin.)
(6) Blemished	Any of the following blemishes are considered damage: <ul style="list-style-type: none"> • Insect injury; • Bird pecks; • Limb rub; • Hail marks; • Sunburn; • Solution cracks; • Other blemishes or combinations of blemishes that materially affect the appearance of the cherry; or • Any cherry with flesh that is materially discolored.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-12-037, § 16-414-145, filed 5/25/05, effective 6/25/05.]

WAC 16-414-155 What specific defects are considered serious damage to Washington standards for sulphured cherries? The defects listed in the following table are considered serious damage:

DEFECT	DESCRIPTION
(1) Deformed cherry or double cherry	Any deformed sulphured cherry or double sulphured cherry is considered serious damage.
(2) Mechanical injury	Mechanical injury to Washington No. 2 whole cherries is considered serious damage if it causes any: <ul style="list-style-type: none"> • Open pitter holes; • Pitter hole where there is a serious loss of flesh; • Pitter tears; or • Other mechanical injury that seriously affects the cherry's appearance.
(3) Mechanical injury	Mechanical injury to Washington No. 2 halved cherries is considered serious damage if it causes any: <ul style="list-style-type: none"> • Open pitter holes; • Pitter hole where there is a serious loss of flesh; • Pitter tears; or • Other mechanical injury that seriously affects the cherry's appearance.

DEFECT	DESCRIPTION
(4) Surface discoloration	Surface discoloration is considered serious damage when any: <ul style="list-style-type: none"> • Light surface discoloration exceeds, in the aggregate, 1/2 of the cherry's surface; or • Dark surface discoloration exceeds, in the aggregate, 1/8 of the cherry's surface.
(5) Rain cracks	Rain cracks on Washington No. 2 whole cherries are considered serious damage if: <ul style="list-style-type: none"> • In the stem basin and more than 1/2 inch in length; or • Outside the stem basin and more than 3/8 of an inch in length, measured on the circumference.
(6) Rain cracks	Rain cracks on Washington No. 2 halved cherries are considered serious damage if: <ul style="list-style-type: none"> • In the stem basin and more than 1/4 inch in length; or • Outside the stem basin more than 3/16 of an inch in length, measured on the circumference.
(7) Blemished	Any blemish or combination of blemishes are considered serious damage if they seriously: <ul style="list-style-type: none"> • Affect the appearance of the cherry; or • Discolor the flesh of the cherry.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-20-075, § 16-414-155, filed 10/4/05, effective 11/4/05; 05-12-037, § 16-414-155, filed 5/25/05, effective 6/25/05.]

Chapter 16-445 WAC

WASHINGTON STANDARDS FOR ITALIAN PRUNES

WAC

16-445-015	What definitions are important to this chapter?
16-445-025	What does "damage" and "serious damage" mean?
16-445-040	What is a "Washington No. 1 grade" Italian prune?
16-445-045	What tolerances apply to Italian prunes?
16-445-060	How does the department apply its Italian prune tolerances during an inspection?
16-445-070	What are the "standard pack" requirements for Italian prunes?

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-445-001	Promulgation. [Order 1262, § 16-445-001, filed 5/5/72.] Repealed by 05-10-093, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
16-445-050	Culls. [Order 1262, § 16-445-050, filed 5/5/72; Order 662, effective 7/8/53.] Repealed by 05-10-093, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
16-445-080	Definitions of terms. [Order 1262, § 16-445-080, filed 5/5/72; Order 662, effective 7/8/53.] Repealed by 05-10-093, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.
16-445-090	Effective date. [Order 1262, § 16-445-090, filed 5/5/72.] Repealed by 05-10-093, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapters 15.17 and 34.05 RCW.

WAC 16-445-015 What definitions are important to this chapter? The following definitions are important to this chapter and apply only to Italian prunes:

"Badly misshapen" means prunes so malformed or rough that they appear to be seriously damaged. Doubles that have approximately equal sized halves are not considered "badly misshapen."

"Culls" mean prunes that are immature, or seriously damaged by growth cracks, hail, insect pests, mechanical or other means.

"Department" means the Washington state department of agriculture.

"Diameter" means the greatest distance measured through the center of a prune at right angles to a line running from the stem to the blossom end.

"Fairly uniform size" means that the prunes in each packed container must not show a variation of more than one-fourth of an inch in diameter.

"Fairly well colored" means that at least three-fourths of the surface of a prune is purple color.

"Mature" means that a prune has reached the stage of maturity that will insure proper completion of the ripening process.

"Sunscald" means an apparent softening or collapse of a prune's flesh that is caused by the sun.

"Well colored" means that except for the portion of allowed russetting, ninety-five percent of the surface of a prune is purple color.

"Well-formed" means that a prune has the shape characteristic of the variety. Doubles are not considered well-formed.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-10-093, § 16-445-015, filed 5/4/05, effective 6/4/05.]

WAC 16-445-025 What does "damage" and "serious damage" mean? The following table explains the differences between "damage" and "serious damage" as the terms apply to Italian prunes:

"Damage" means:	"Serious damage" means:
(1) Any injury or defect that materially affects the prune's appearance, or its edible or shipping quality.	(1) Any injury or defect that seriously affects the prune's appearance, or its edible or shipping quality.
Note: Internal growth cracks, cavities or gum spots are not considered damage.	
(2) Any one of the following defects or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, is "damage":	(2) Any one of the following defects, or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, is "serious damage":
(a) Broken skins that are unhealed.	(a) Broken skins that are unhealed and more than one-eighth inch in diameter or depth.

"Damage" means:	"Serious damage" means:
Note: <ul style="list-style-type: none"> Broken skins caused by pulled stems where the skin is not torn beyond the stem basin are not damage. Broken skins that have healed are considered scars. 	Note: <ul style="list-style-type: none"> Broken skins caused by pulled stems where the skin is not torn beyond the stem basin are not serious damage. Broken skins that have healed are considered scars.
(b) Heat injury that is extensive or not light in color.	(b) Heat injury that causes any softening or dark discoloration of the flesh. Note: <ul style="list-style-type: none"> Heat injury may cause internal or external discoloration, and may or may not be serious. Heat injury should not be confused with sunscald, which causes softening or collapse of the tissue, and which is always classed as serious damage.
(c) External growth cracks , when: <ul style="list-style-type: none"> There are more than one on a prune; or One is deep; or One is not well healed; or One is more than 1/4 inch in length. 	(c) External growth cracks that are: <ul style="list-style-type: none"> Not well healed; or More than 3/16 inch in depth; or More than 1/2 inch in length.
(d) Sunburn that has: <ul style="list-style-type: none"> Materially changed the normal color of a prune; or Caused the skin to blister or crack. 	(d) Sunburn that causes: <ul style="list-style-type: none"> Decided flattening of a prune; or Blistering, cracking, or noticeable brownish discoloration of the skin.
(e) Split pit that: <ul style="list-style-type: none"> Causes a readily apparent crack at the stem end; or Affects a prune's shape so it is not well-formed. 	(e) Split pit that: <ul style="list-style-type: none"> Causes a crack at the stem end more than 3/16 inch in length, including any part that may be covered by the stem; or Affects the shape to the extent that the fruit is badly misshapen.
(f) Hail marks , or other similar depressions or scars that: <ul style="list-style-type: none"> Are not shallow or superficial; or Total more than 3/8 inch in diameter; or Break the skin. 	(f) Hail marks that: <ul style="list-style-type: none"> Are more than 3/16 inch deep; or Total more than 1/2 inch in diameter.
(g) Drought spots or external gum spots that are more than 1/4 inch in diameter.	(g) Drought spots or external gum spots that total more than 1/2 inch in diameter.

"Damage" means:	"Serious damage" means:
(h) Russetting that is: <ul style="list-style-type: none"> Not excessively rough but totals more than 1/10 of a prune's surface; or Excessively rough and totals more than 1/4 inch in diameter. 	(h) Russetting that is: <ul style="list-style-type: none"> Not excessively rough but totals more than 1/3 of a prune's surface; or Excessively rough and totals more than 1/2 inch in diameter.
(i) Scars : <ul style="list-style-type: none"> Dark, rough or depressed scars totaling more than 1/4 inch in diameter. Fairly smooth, superficial scars that total more than 1/2 inch in diameter. An example is fairly light discoloration such as that caused by handling or packing or by prunes rubbing against each other while on the tree. Thorn and limb scratches that are not well healed, or that total more than 1/2 inch in length. 	(i) Scars that are: <ul style="list-style-type: none"> Very dark or excessively rough and total more than 1/2 inch in diameter; or More than 3/16 inches deep.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-10-093, § 16-445-025, filed 5/4/05, effective 6/4/05.]

WAC 16-445-040 What is a "Washington No. 1 grade" Italian prune? To be labeled "Washington No. 1 grade," Italian prunes must be:

- (1) Of one variety;
- (2) A purplish color over at least 2/3 of their surface;
- (3) Well-formed;
- (4) At least 1-1/4 inches in diameter unless otherwise specified;
- (5) Mature but not overripe, soft or shriveled;
- (6) Free from decay and sunscald; and
- (7) Free from damage caused by:
 - (a) Broken skins;
 - (b) Heat injury;
 - (c) Growth cracks;
 - (d) Sunburn;
 - (e) Split pits;
 - (f) Hail marks;
 - (g) Drought spots;
 - (h) Russetting;
 - (i) Scars; or
 - (j) Dirt, other foreign material, disease, insects or mechanical or other means.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-10-093, § 16-445-040, filed 5/4/05, effective 6/4/05. Statutory Authority: Chapter 15.17 RCW. 78-04-061 (Order 1549), § 16-445-040, filed 3/31/78; Order 1262, § 16-445-040, filed 5/5/72; Order 698, (1), effective 6/15/54; Order 662, effective 7/8/53.]

WAC 16-445-045 What tolerances apply to Italian prunes? The following tolerances apply to prunes in any container and are adopted to allow for variations that are incidental to proper grading and handling:

(1) Tolerances that apply at the shipping point:	(2) Tolerances that apply to the destination or en route to the destination:
(a) Other than color and size, no more than ten percent, by count, may fail to meet the grade requirements for defects.	(a) No more than eighteen percent, by count, may fail to meet grade requirements.
(b) No more than five percent, by count, may have serious damage defects.	(b) No more than ten percent, by count, may fail to meet grade requirements due to other permanent defects.
(c) No more than one percent, by count, may be decayed.	(c) No more than seven percent, by count, may have defects that cause serious damage, including no more than five percent for permanent defects and no more than two percent for decay.
(d) No more than ten percent, by count, may fail to meet the color requirements.	(d) No more than ten percent, by count, may fail to meet color requirements.
(e) No more than ten percent, by count, may fail to meet the size specifications.	(e) No more than ten percent, by count, may fail to meet minimum size requirements.
(f) The combined tolerance for all defects must not exceed fifteen percent by count.	

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-10-093, § 16-445-045, filed 5/4/05, effective 6/4/05.]

WAC 16-445-060 How does the department apply its Italian prune tolerances during an inspection? If the averages for an entire lot are within the specified tolerances, the following limitations apply to the contents of the individual containers in the lot. Based upon sample inspections, the individual containers in the lot:

- (1) May contain at least one defective and one under-sized prune.
- (2) Must have no more than one and one-half times the tolerance specified when a tolerance is ten percent or more.
- (3) Must have no more than double the tolerance specified when a tolerance is less than ten percent.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-10-093, § 16-445-060, filed 5/4/05, effective 6/4/05; Order 1262, § 16-445-060, filed 5/5/72; Order 662, effective 7/8/53.]

WAC 16-445-070 What are the "standard pack" requirements for Italian prunes? (1) A standard pack of Italian prunes must:

- (a) Contain prunes of fairly uniform size;
- (b) Be tightly packed according to industry-approved methods; and

(c) Contain prunes in the top layer that are not noticeably superior in quality or size to those below the top layer.

(2) In order to allow for variations incident to proper packing, no more than ten percent of the containers in any lot, by count, may fail to meet the standard pack requirements of this section.

[Statutory Authority: Chapters 15.17 and 34.05 RCW. 05-10-093, § 16-445-070, filed 5/4/05, effective 6/4/05; Order 1262, § 16-445-070, filed 5/5/72; Order 662, effective 7/8/53.]

Chapter 16-470 WAC

QUARANTINE—AGRICULTURAL PESTS

WAC

16-470-103	Definitions.
16-470-105	Area under order for apple maggot—Pest free area—Quarantine areas.
16-470-900	Schedule of fees and charges—Billing policies and procedures.
16-470-912	Schedule of fees and charges—Applicable fees and charges.
16-470-917	Schedule of fees and charges—Fees for post entry inspection services.

WAC 16-470-103 Definitions. The following definitions shall apply to WAC 16-470-101 through 16-470-130:

(1) "Established" means present in a country, state, county or other area, multiplying and expected to continue.

(2) "Threatened with infestation" means that any life stage of apple maggot or plum curculio has been found within one-half mile of an orchard or other production site, including any portion of an orchard outside or beyond the one-half mile area. Orchards or production sites in a quarantined area, which are not surveyed by a plant protection organization, are considered to be threatened with infestation. An orchard or other production site will be removed from threatened with infestation status, if control measures are performed at the detection site, and survey by the department shows no further detection(s) within the one-half mile area around the orchard or other production site throughout the subsequent full growing season.

[Statutory Authority: Chapters 17.24 and 34.05 RCW. 05-09-005, § 16-470-103, filed 4/7/05, effective 8/15/05. Statutory Authority: Chapter 17.24 RCW. 01-14-075, § 16-470-103, filed 7/3/01, effective 8/3/01.]

WAC 16-470-105 Area under order for apple maggot—Pest free area—Quarantine areas. (1) A pest free area for apple maggot is declared for the following portions of Washington state:

(a) Counties of Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Lincoln, Okanogan, Pend Oreille, Stevens, Walla Walla, and Whitman.

(b) The portion of Kittitas County designated as follows: Beginning at the point where Interstate Highway No. 90 crosses longitude 120°31' W; thence southerly to the Kittitas - Yakima County line; thence easterly along said county line to the Columbia River; thence northerly along said Columbia River to Interstate Highway No. 90; thence westerly along Interstate Highway No. 90 to the point of beginning.

(c) The portions of Yakima County east of longitude 120°48' W.

(2) A quarantine for apple maggot is declared for the following portions of Washington state:

(a) Counties of Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Klickitat, Lewis, Mason, Pacific, Pierce, Snohomish, Spokane, Skagit, Skamania, Thurston, Wahkiakum, and Whatcom.

(b) The counties of Kittitas and Yakima, except for the areas designated in subsection (1)(b) and (c) of this section.

(3) A quarantine for apple maggot is declared for all states or foreign countries where apple maggot is established. The area under quarantine includes, but is not limited to, the states of Idaho, Oregon, Utah, and California, and, in the eastern United States, all states and districts east of and including North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, and any other areas where apple maggot is established.

[Statutory Authority: Chapters 17.24 and 34.05 RCW. 05-09-005, § 16-470-105, filed 4/7/05, effective 8/15/05; 04-09-027, § 16-470-105, filed 4/13/04, effective 8/16/04. Statutory Authority: Chapter 17.24 RCW. 01-14-075, § 16-470-105, filed 7/3/01, effective 8/3/01.]

WAC 16-470-900 Schedule of fees and charges—Billing policies and procedures. (1) All billable services provided under chapter 17.24 RCW are due and payable upon billing by the department. For the convenience of established accounts and in accord with good business practices, the department provides a monthly billing. Accounts not paid in full within thirty days of billing are considered delinquent.

(2) All delinquent accounts are assessed a late charge equal to one and one-half percent per month, or portion of a month, on the unpaid balance.

(3) Except for established accounts where there is a reasonable expectation of additional charges during a calendar month, the minimum billable amount through the monthly billing system is twenty dollars. All billable services of less than twenty dollars are due and payable on the date that service is rendered.

(4) No person with an account ninety days or more in arrears will receive service except on the basis of payment in full at the time service is rendered. Such accounts are not restored to monthly billing status until all past due amounts are paid-in-full. Such accounts may be subject to legal action for collection.

(5) Accounts that become ninety days or more in arrears twice within a five-year period may be subject to a permanent requirement for payment in full at the time service is provided.

[Statutory Authority: Chapters 17.24 and 34.05 RCW. 05-12-111, § 16-470-900, filed 5/31/05, effective 7/1/05. Statutory Authority: Chapter 17.24 RCW. 99-12-035, § 16-470-900, filed 5/26/99, effective 6/26/99; 92-07-023, § 16-470-900, filed 3/10/92, effective 4/10/92.]

WAC 16-470-912 Schedule of fees and charges—Applicable fees and charges. (1) Hourly rate.

Hourly rate - business hours	\$31.95
Hourly rate - nonbusiness hours	\$40.80

(2) Laboratory diagnostic services, except as provided in subsection (3) or (4) of this section, are charged at the applicable hourly rate plus materials.

(3) Plant pathology laboratory diagnostic fees are as follows:

[2006 WAC Supp—page 60]

Identity Determination	1 sample	5 samples	10 samples	50 samples	100+ samples
virus (ELISA)	At cost	At cost	\$10.55 ea	\$5.20 ea	\$3.00 ea
bacteria	42.35 ea	40.90 ea	38.35 ea	37.10 ea	37.10 ea
fungus	44.80 ea	38.35 ea	37.10 ea	35.75 ea	33.20 ea
nematode	33.20 ea	30.60 ea	28.05 ea	27.35 ea	25.45 ea

Note: To receive volume rates, samples must be submitted as a unit and identification requests must be for one specific virus, bacterium, fungus, or nematode. Samples tested for multiple pathogens will be considered as multiple samples unless all pathogens can be detected in a single test without additional inputs.

(4) The department reserves the right to provide service by written agreement at a single, negotiated cost or at a negotiated rate for projects with at least one of the following characteristics:

- (a) Projects greater than one hundred samples;
- (b) Projects requiring materials not readily available; or
- (c) Projects requiring special handling or prolonged incubation periods.

The rate charged shall not be less than the cost to the department of performing the tests.

[Statutory Authority: Chapters 17.24 and 34.05 RCW. 05-12-111, § 16-470-912, filed 5/31/05, effective 7/1/05. Statutory Authority: Chapters 17.24, 15.14, and 34.05 RCW. 05-01-180, § 16-470-912, filed 12/21/04, effective 1/21/05. Statutory Authority: Chapters 17.24 and 34.05 RCW. 04-17-036, § 16-470-912, filed 8/10/04, effective 9/10/04. Statutory Authority: Chapters 15.13, 15.14, 17.24, and 34.05 RCW. 03-21-166, § 16-470-912, filed 10/22/03, effective 11/22/03. Statutory Authority: Chapters 17.24 and 34.05 RCW. 03-10-082, § 16-470-912, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapters 17.24 and 15.14 RCW. 01-11-033, § 16-470-912, filed 5/8/01, effective 6/8/01.]

WAC 16-470-917 Schedule of fees and charges—Fees for post entry inspection services. (1) Post entry site inspection and/or permit review and approval \$64.05

(2) Subsequent inspections of post entry plant materials are provided at the applicable hourly rate.

(3) Post entry inspection fees may be waived for state universities, United States Department of Agriculture researchers, and other public entities.

[Statutory Authority: Chapters 17.24 and 34.05 RCW. 05-12-111, § 16-470-917, filed 5/31/05, effective 7/1/05; 04-17-036, § 16-470-917, filed 8/10/04, effective 9/10/04. Statutory Authority: Chapters 15.13, 15.14, 17.24, and 34.05 RCW. 03-21-166, § 16-470-917, filed 10/22/03, effective 11/22/03. Statutory Authority: Chapters 17.24 and 34.05 RCW. 03-10-082, § 16-470-917, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapters 17.24 and 15.14 RCW. 01-11-033, § 16-470-917, filed 5/8/01, effective 6/8/01.]

Chapter 16-501 WAC

WSDA PROCEDURAL RULES—COMMODITY BOARDS OR COMMISSIONS

WAC

16-501-525

Unsigned ballot envelopes: Advisory votes, referenda, and board member elections.

WAC 16-501-525 Unsigned ballot envelopes: Advisory votes, referenda, and board member elections. The director of the department of agriculture is responsible for administering elections for advisory votes, marketing order referenda and board member selection as required in chapters 15.65 and 15.66 RCW.

(1) The department will mail ballots to those eligible to vote in each election according to the terms of the applicable statute and marketing order. Each voter will be provided an official ballot, instructions for voting, a security envelope and return ballot-mailing envelope with a "Certificate of Eligibility" (certification) printed on the reverse side of the envelope.

(2) After casting its vote in the election, an eligible voter must place the ballot in the security envelope. The security envelope is then to be placed in the ballot-mailing return envelope with the certification on the reverse side. To validate its ballot, the voter is required to complete, sign and date the certification.

(3) In the event a ballot is submitted to the department and the certification is not signed and dated in accordance with the instructions contained on the outside of the ballot-mailing return envelope or the ballot is returned in a different envelope without a certification, the department shall process the ballot and the ballot-mailing return envelope as follows, if the department is able to ascertain the identity of the eligible voter from the envelope:

(a) The department will not open the ballot-mailing return envelope, but will make a copy of the reverse side of the ballot-mailing return envelope with the printed certification. The original ballot-mailing return envelope will be held by the department.

(b) The department will provide the eligible voter with a copy of the ballot-mailing return envelope with the certification and require the voter to sign the copy of the certification and mail it back to the department so that it is received not later than the date specified in the correspondence accompanying the certification.

(c) The department shall advise the voter about the correct procedures for completing the unsigned certification and that, in order for the ballot to be counted, the voter must sign and date the copy of the certification, and mail it back to the department so that it does not arrive later than the specified date.

(d) The signed certification must be received by the department within fourteen calendar days from the date the copy of the certification was mailed to the voter as evidenced by the United States mail date stamp, for the voter's ballot to be validated.

(e) If the department does not receive the signed certification with the requested information within the specified time frame, the original ballot-mailing envelope will not be opened nor will the ballot it contains be counted. The unopened ballot-mailing envelope will be set aside and retained in accordance with the appropriate records retention schedule.

(4) A record shall be kept of the date on which the department mailed the copy of the certification to the eligible voter, the date on which the voter signed the certification and the date that the department received the certification. That record will be retained in accordance with applicable records retention schedules for ballots.

(5) Only validated ballots will be included in a ballot count.

(6) This rule applies to elections and runoffs required by statute that are conducted after the effective date of this rule. However, subsections (3) and (4) do not apply in an election

once any election ballots have been counted or in a runoff election once any runoff election ballots have been counted.

(7) This rule does not apply if the recount period specified in the applicable statute has expired.

[Statutory Authority: RCW 15.65.047 and 15.66.055. 05-08-078, § 16-501-525, filed 4/1/05, effective 5/2/05.]

Chapter 16-529 WAC

WASHINGTON ALFALFA SEED COMMISSION

WAC

16-529-005	Marketing order for Washington alfalfa seed—Policy statement.
16-529-006	Marketing order purposes.
16-529-010	Definitions.
16-529-030	Board membership.
16-529-040	Board membership qualifications.
16-529-050	Term of office.
16-529-060	Nomination of elected or director-appointed board members.
16-529-070	Election or advisory vote of board members.
16-529-080	Vacancies.
16-529-100	Board compensation.
16-529-110	Powers and duties of the board.
16-529-120	Procedures for board.
16-529-150	Collections.
16-529-160	Penalties.
16-529-190	Termination of the order.
16-529-200	Effective time.
16-529-300	Time, place, method for collection and remittance of assessments.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-529-130	Marketing order purposes. [Order 1, Article III, § A, filed 3/13/75, effective 7/1/75.] Repealed by 05-08-010, filed 3/25/05, effective 4/25/05. Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW.
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WAC 16-529-005 Marketing order for Washington alfalfa seed—Policy statement. (1) The marketing of alfalfa seed within this state is in the public interest. It is vital to the continued economic well-being of the citizens of this state and their general welfare that its alfalfa seed be properly promoted by:

(a) Enabling producers of alfalfa seed to help themselves in establishing orderly, fair, sound, efficient, and unhampered marketing, grading, and standardizing of the alfalfa seed they produce; and

(b) Working towards stabilizing the agricultural industry by increasing production of alfalfa seed within the state.

(2) That it is in the overriding public interest that support for the alfalfa seed industry be clearly expressed, that adequate protection be given to the industry and its activities and operations, and that alfalfa seed be promoted individually and as part of a comprehensive agricultural industry to:

(a) Enhance the reputation and image of Washington state's alfalfa seed.

(b) Increase the sale and use of Washington state's alfalfa seed in local, domestic, and foreign markets.

(c) Protect the public by educating the public in reference to the quality, care, and methods used in the production of Washington state's alfalfa seed.

(d) Increase the knowledge of the qualities and value of Washington state's alfalfa seed and products.

(e) Support and engage in programs or activities that benefit the planting, production, harvesting, handling, pro-

cessing, marketing, and uses of alfalfa seed produced in Washington state.

(3) The director is authorized to implement, administer, and enforce chapter 15.65 RCW through the adoption of this marketing order.

(4) The Washington state alfalfa seed commodity board exists primarily for the benefit of the people of the state of Washington and its economy, and with oversight by the director, the board is authorized to speak on behalf of Washington state government with regard to alfalfa seed under the provisions of this marketing order.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-08-010, § 16-529-005, filed 3/25/05, effective 4/25/05.]

WAC 16-529-006 Marketing order purposes. This marketing order is to promote the general welfare of the state and the Washington state alfalfa seed commodity board is designated by the director to conduct the following programs in accordance with chapter 15.65 RCW for the purpose of maintaining existing markets or creating new or larger local, domestic, and foreign markets; increasing production efficiency; ensuring a fair regulatory environment; or increasing per capita consumption of alfalfa seed grown in Washington state.

(1) To carry out the purposes of this chapter, the board shall provide for a program in one or more of the following areas:

(a) Establish plans and conduct programs for marketing, sales, promotion, and/or other programs for maintaining present markets and/or creating new or larger markets for alfalfa seed. Such programs shall be directed toward increasing the sale of alfalfa seed without reference to any particular brand or trade name and shall neither make use of false or unwarranted claims on behalf of alfalfa seed nor disparage the quality, value, sale, or use of any other agricultural commodity. The board may also engage in cooperative efforts in the domestic or foreign marketing of alfalfa seed.

(b) Provide for research in the production, harvesting, processing, irrigation, transportation, handling, and/or distribution of alfalfa seed and expend the necessary funds for such purposes. Insofar as practicable, such research shall be carried out by experiment stations of Washington State University, but if in the judgment of the board said experiment stations do not have adequate facilities for a particular project or if some other research agency has better facilities therefor, the project may be carried out by other research agencies selected by the board.

(c) Provide for collection and dissemination of information pertaining to alfalfa seed.

(d) Conduct programs for the purpose of providing information and education including:

(i) Marketing information and services for producers of alfalfa seed for the verification of grades, standards, weights, tests, and sampling of quality and quantity of alfalfa seed purchased by handlers from affected producers.

(ii) Information and services enabling producers to meet their resource conservation objectives.

(iii) Alfalfa seed-related education and training.

(e) Subject to the provisions of the act, provide information and communicate on matters pertaining to the production, irrigation, processing, transportation, marketing, or uses

of alfalfa seed produced in Washington state to any elected official or officer or employee of any agency.

(2) The director shall approve any plans, programs, and projects concerning:

(a) The establishment, issuance, effectuation, and administration of programs authorized under this section for marketing and promotion of alfalfa seed.

(b) The establishment and effectuation of market research projects, market development projects, or both to the end that marketing and utilization of alfalfa seed may be encouraged, expanded, improved, or made more efficient.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-08-010, § 16-529-006, filed 3/25/05, effective 4/25/05.]

WAC 16-529-010 Definitions. Definitions for terms used in this chapter are also found in chapter 15.65 RCW, Washington State Agricultural Commodity Boards Act. For the purpose of this marketing order, the following additional definitions shall apply:

(1) "Director" means the director of agriculture of the state of Washington or his or her duly appointed representative.

(2) "Department" means the department of agriculture of the state of Washington.

(3) "Act" means the Washington State Agricultural Commodity Boards or chapter 15.65 RCW.

(4) "Person" means any individual, firm, corporation, limited liability company, trust, association, partnership, society or any other organization of individuals, or any unit or agency of local or state government.

(5) "Affected producer" means any person who produces any variety of alfalfa seed in the state of Washington for market in commercial quantities: Provided, That for the purpose of election and membership on the commodity board, a producer-handler shall be considered as acting only as a producer.

(6) "Commercial quantity" means all alfalfa seed produced in any calendar year by any producer.

(7) "Affected handler" means any person who acts as principal or agent or otherwise in buying, selling, marketing, or distributing alfalfa seed not grown by him/her.

(8) "Producer-handler" means any person who acts both as a producer and as a handler with respect to the alfalfa seed which he/she produces, and a handler with respect to the alfalfa seed which he/she handles, including that produced by himself/herself. "To produce" means to act as a producer. For the purposes of the alfalfa seed marketing order, "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

(9) "Alfalfa seed" means the seed that is harvested from any variety of alfalfa plants.

(10) "Alfalfa seed commodity board" hereinafter referred to as "board" or "commission" means the commodity board formed under the provisions of WAC 16-529-020 through 16-529-120.

(11) "Marketing season" or "fiscal year" means the twelve month period beginning with July 1 of any year and ending with June 30 of the year following, both dates being inclusive.

(12) "Affected area" means that portion of the state of Washington located east of the summit of the Cascade Mountains.

(13) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade.

(14) "Affected unit" means one hundred weight (cwt) of cleaned alfalfa seed as sold by an affected producer to a handler or other producer.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-08-010, § 16-529-010, filed 3/25/05, effective 4/25/05; Order 1, Article I, § A, filed 3/13/75, effective 7/1/75.]

WAC 16-529-030 Board membership. (1) The board shall consist of eight members. Six members shall be affected producers appointed or elected as provided in WAC 16-529-020 through 16-529-120. One member shall be an affected handler appointed as provided in WAC 16-529-020 through 16-529-120. The director shall appoint one member of the board who is neither an affected producer nor an affected handler to represent the director. The position representing the director shall be a voting member.

(a) Director-appointed positions on the board shall be designated as position 2, position 4, position 6, and position 7. The affected handler member of the board shall be position 7.

(b) Elected affected producer positions on the board shall be designated as position 1, position 3, and position 5.

(c) The position representing the director who is neither an affected producer nor an affected handler shall be designated as position 8.

(2) For the purpose of nomination, appointment, and election of affected producer members of the board, the affected area of the state of Washington shall be divided into three representative districts as follows:

(a) District I shall have two board members, being Positions 1 and 2, and shall include the counties of Adams, Chelan, Douglas, Ferry, Franklin, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, and Stevens.

(b) District II shall have one board member, being Position 3, and shall include the counties of Benton, Kittitas, Klickitat, and Yakima.

(c) District III shall have three board members, being Positions 4, 5, and 6, and shall include the counties of Asotin, Columbia, Garfield, Walla Walla, and Whitman.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-08-010, § 16-529-030, filed 3/25/05, effective 4/25/05. Statutory Authority: Chapter 15.65 RCW. 85-10-015 (Order 1850), § 16-529-030, filed 4/22/85, effective 6/1/85; Order 1, Article II, § B, filed 3/13/75, effective 7/1/75.]

WAC 16-529-040 Board membership qualifications.

(1) The affected producer members of the board must be practical producers of alfalfa seed and each shall be a citizen and resident of this state, over the age of eighteen years. Each affected producer board member must be and have been actually engaged in producing alfalfa seed within the state of Washington for a period of five years and has during that time derived a substantial portion of his/her income therefrom and is not engaged in business, directly or indirectly, as a handler or other dealer.

(2) The affected handler member of the board must be a practical handler of alfalfa seed and shall be a citizen and res-

ident of this state, over the age of eighteen years. The affected handler board member must be and have been, either individually or as an officer or an employee of a corporation, firm, partnership, association, or cooperative, actually engaged in handling alfalfa seed within the state of Washington for a period of five years and has during that period derived a substantial portion of his/her income therefrom.

(3) The qualifications of members of the board must continue during their term of office.

(4) To accomplish the transition to a commodity board structure where the director appoints a majority of the board members, the names of the currently elected board members in positions 2, 4, 6, and 7 shall be forwarded to the director for appointment within thirty days of the effective date of this amended marketing order.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-08-010, § 16-529-040, filed 3/25/05, effective 4/25/05; Order 1, Article II, § C, filed 3/13/75, effective 7/1/75.]

WAC 16-529-050 Term of office. (1) The term of office for members of the board shall be three years, and one-third of the membership as nearly as possible shall be appointed or elected each year.

(2) Except for the director's representative, no appointed or elected member of the board may serve more than two full consecutive three-year terms.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-08-010, § 16-529-050, filed 3/25/05, effective 4/25/05; Order 1, Article II, § D, filed 3/13/75, effective 7/1/75.]

WAC 16-529-060 Nomination of elected or director-appointed board members. (1) For the purpose of nominating candidates for appointment or election to board membership, the director shall call a separate nomination meeting of affected producers and affected handlers.

(2) Each year the director shall call a nomination meeting for both elected and director-appointed affected producer and affected handler board members in those districts whose board members' terms are about to expire. The meeting(s) shall be held at least thirty days in advance of the date set by the director for the election or advisory vote of board members.

(a) Notice of a nomination meeting shall be published in newspapers of general circulation within the affected district not less than ten days in advance of the date of such meeting and, in addition, written notice of every such meeting shall be given to all affected producers within such affected district, and to all handlers, according to the list maintained by the board pursuant to RCW 15.65.295.

(b) Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting.

(c) Any qualified affected producer or affected handler may be nominated orally for membership on the board at a nomination meeting. Nominations may also be made within five days after the nomination meeting by written petition filed with the director, signed by not less than five affected producers or affected handlers.

(d) When only one nominee is nominated by the affected producers for any position, RCW 15.65.250 shall apply.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-08-010, § 16-529-060, filed 3/25/05, effective 4/25/05; Order 1, Article II, § E, filed 3/13/75, effective 7/1/75.]

WAC 16-529-070 Election or advisory vote of board members. (1) An election or advisory vote shall be conducted by secret ballot under the supervision of the director within the month of June. Each affected producer and affected handler shall be entitled to one vote.

(2) Elected affected producer members of the board shall be elected by a majority of the votes cast by the affected producers within the affected district.

If a nominee does not receive a majority of the votes on the first ballot, a runoff election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(3) An advisory vote shall be conducted for affected producer or affected handler board members appointed by the director under the provisions of RCW 15.65.243. The names of the two candidates receiving the most votes in the advisory vote shall be forwarded to the director for potential appointment to the board. In the event there are only two candidates nominated for a board position, an advisory vote may not be held and the candidates' names shall be forwarded to the director for potential appointment.

(4) Notice of every election or advisory vote for board membership shall be published in a newspaper of general circulation within the affected district not less than ten days in advance of the date of the election or advisory vote. Not less than ten days prior to every election or advisory vote for board membership, the director shall mail a ballot of the candidates to each affected producer and affected handler entitled to vote whose name appears upon the list of such affected producers and affected handlers as maintained by the board pursuant to RCW 15.65.295. Any other affected producer or affected handler entitled to vote may obtain a ballot by application to the director upon establishing his/her qualifications.

(5) Nonreceipt of a ballot by an affected producer or affected handler shall not invalidate the election or advisory vote of any board member.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-08-010, § 16-529-070, filed 3/25/05, effective 4/25/05; Order 1, Article II, § F, filed 3/13/75, effective 7/1/75.]

WAC 16-529-080 Vacancies. (1) In the event of a vacancy on the board in an elected position, the remaining members shall select a qualified person to fill the unexpired term. The appointment shall be made at the board's first or second meeting after the position becomes vacant.

(2) In the event of a vacancy in a director-appointed position, the position shall be filled as specified in RCW 15.65.270.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-08-010, § 16-529-080, filed 3/25/05, effective 4/25/05; Order 1, Article II, § G, filed 3/13/75, effective 7/1/75.]

WAC 16-529-100 Board compensation. No member of the board shall receive any salary or other compensation, but each member shall receive an amount not to exceed the amount specified in RCW 43.03.230 for actual attendance on or traveling to and from meetings of the board or on special

assignment for the board, together with subsistence and traveling expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060: Provided, That the board may adopt by resolution provisions for reimbursement of actual travel expenses incurred by members and employees of the board in carrying out the provisions of this marketing order pursuant to RCW 15.65.270.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-08-010, § 16-529-100, filed 3/25/05, effective 4/25/05; Order 1, Article II, § I, filed 3/13/75, effective 7/1/75.]

WAC 16-529-110 Powers and duties of the board. The board shall have the following powers and duties:

(1) To administer, enforce, and control the provisions of this chapter as the designee of the director.

(2) To elect a chairman and such other officers as the board deems advisable.

(3) To employ and discharge at its discretion such personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the attorney general, as the board determines are necessary and proper to carry out the purpose of this chapter and effectuate the declared policies of the act.

(4) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration, and enforcement of this chapter. Such expenses and costs may be paid by check, draft, or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(5) To reimburse any applicant who has deposited money with the director in order to defray the costs of formulating this chapter.

(6) To establish an "alfalfa seed revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, except as the amount of petty cash for each day's needs, not to exceed one hundred dollars, shall be deposited each day or as often during the days as advisable.

(7) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, collections, receipts, deposits, withdrawals, disbursements, paid outs, moneys and other financial transactions made and done pursuant to this chapter. Such records, books, and accounts shall be audited at least annually subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last days of each fiscal year of the commission. A copy of such audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor, and the board.

(8) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(9) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of this chapter during each fiscal year. The board, at

least sixty days prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget.

(10) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books, and minutes of board meetings shall be kept at such headquarters.

(11) To adopt rules of a technical or administrative nature for the operation of the board, subject to the provisions of chapter 34.04 RCW (Administrative Procedure Act).

(12) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of this chapter and the act, along with the necessary authority and procedure for obtaining such information.

(13) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction, or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon him by the act or this chapter.

(14) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements, or orders.

(15) To work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in this order.

(16) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local. Personal service contracts must comply with chapter 39.29 RCW.

(17) To accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies.

(18) To enter into contracts or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of alfalfa seed.

(19) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general.

(20) To engage in appropriate fund-raising activities for the purpose of supporting activities authorized by this order.

(21) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, transportation, distribution, sale, or use of alfalfa seed including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission.

(22) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of this marketing order and data on the value of each affected producer's production for a minimum three-year period pursuant to RCW 15.65.280.

(23) To maintain a list of the names and addresses of persons who handle alfalfa seed within the affected area and data on the amount and value of the alfalfa seed handled for a min-

imum three-year period by each person pursuant to RCW 15.65.280.

(24) To maintain a list of names and addresses of all affected persons who produce alfalfa seed and the amount, by unit, of alfalfa seed produced during the past three years pursuant to RCW 15.65.295.

(25) To maintain a list of all persons who handle alfalfa seed and the amount of alfalfa seed handled by each person during the past three years pursuant to RCW 15.65.295.

(26) To establish a foundation using commission funds as grant money for the purposes established in this marketing order.

(27) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-08-010, § 16-529-110, filed 3/25/05, effective 4/25/05; Order 1, Article II, § J, filed 3/13/75, effective 7/1/75.]

WAC 16-529-120 Procedures for board. (1) The board shall hold regular meetings, at least quarterly, with the time and date thereof to be fixed by resolution of the board. Notice of the time and place of regular meetings shall be published on or before January of each year in the *Washington State Register*. Notice of any change to the meeting schedule shall be published in the state register at least twenty days prior to the rescheduled meeting date.

(2) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least ten days prior to the meeting through regular wire news services and radio, television, and press.

(3) The board shall establish by resolution, the time, place, and manner of calling special meetings with reasonable notice to the members: Provided, That the notice to a member of any special meeting may be waived by a waiver from that member of the board. Notice for special meetings shall be in compliance with chapter 42.30 RCW.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-08-010, § 16-529-120, filed 3/25/05, effective 4/25/05; Order 1, Article II, § K, filed 3/13/75, effective 7/1/75.]

WAC 16-529-150 Collections. Any moneys collected or received by the board pursuant to the provisions of this order during or with respect to any season or year may be refunded on a pro rata basis at the close of such season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of the marketing order to all persons from whom moneys were collected or received, or may be carried over into and used with respect to the next succeeding season, year, or period whenever the board finds that the same will tend to effectuate such policies and purposes.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-08-010, § 16-529-150, filed 3/25/05, effective 4/25/05. Statutory Authority: RCW 15.65.050. 96-03-151 (Order 5090), § 16-529-150, filed 1/24/96, effective 2/24/96; Order 1, Article IV, § B, filed 3/13/75, effective 7/1/75.]

WAC 16-529-160 Penalties. Any due and payable assessment herein levied in such specified amount as may be

determined by the board pursuant to the provisions of the act and this chapter, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of such assessment or such other sum on or before the date due, the board may, and is hereby authorized to add to such unpaid assessment or sum an amount not exceeding ten percent of the unpaid assessment to defray the cost of enforcing the collecting of the assessment. In the event of failure of such person or persons to pay any due and payable assessment or other sum, the board may bring a civil action against the person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent, and the action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-08-010, § 16-529-160, filed 3/25/05, effective 4/25/05; Order 1, Article IV, § C, filed 3/13/75, effective 7/1/75.]

WAC 16-529-190 Termination of the order. Termination shall be accomplished pursuant to RCW 15.65.183 through 15.65.193.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-08-010, § 16-529-190, filed 3/25/05, effective 4/25/05; Order 1, Article VII, § A, filed 3/13/75, effective 7/1/75.]

WAC 16-529-200 Effective time. This marketing order for alfalfa seed shall become effective after having been approved in a referendum of affected producers, by at least 51% of the affected producers of alfalfa seed having at least 65% of the volume of alfalfa seed produced, or by at least 65% of the affected producers of alfalfa seed having at least 51% of the volume of alfalfa seed produced, and after having been filed with the code reviser for not less than thirty days.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-08-010, § 16-529-200, filed 3/25/05, effective 4/25/05; Order 1, Article VIII, § A, filed 3/13/75, effective 7/1/75.]

WAC 16-529-300 Time, place, method for collection and remittance of assessments. Effective with the 1975 crop, the following procedure is established for the collection, reporting, and remittance of assessments levied on alfalfa seed pursuant to RCW 15.65.410 and WAC 16-529-140:

(1) All first buyers of alfalfa seed grown in the state of Washington, or the person acting on behalf of a first buyer, shall withhold the amount of assessment from their remittances to growers of such seed and transmit same to the commission not later than the last day of the calendar month following date of settlement.

(2) All producers selling alfalfa seed other than to first buyers for resale, whether selling directly or through brokers, and including all sales at retail, shall pay the amount of the assessment directly to the commission not later than the last day of the calendar month following date of settlement.

(3) To all assessments due and payable to the commission and not remitted on or before the date due, there shall be added a penalty fee of ten percent as provided in RCW 15.65.440.

(4) All remittances to the commission shall be transmitted with an official reporting form to be furnished free of charge by the commission. Said reporting form shall call for the name and address of the affected producer, the number of pounds of seed sold, the amount of assessment collected from each producer, and the name and address of the person or firm filing the report and remittance.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-08-010, § 16-529-300, filed 3/25/05, effective 4/25/05; Order 2, § 16-529-110 (codified as WAC 16-529-300), filed 10/17/75.]

Chapter 16-532 WAC HOPS

WAC

16-532-010	Definitions.
16-532-020	Hop board.
16-532-040	Assessments and collections.
16-532-103	Rules for implementation of promotional hosting by the Washington state hop commodity board (commission)—Definitions.
16-532-105	Rules for implementation of promotional hosting by the Washington state hop board.
16-532-110	Requirements for collection of assessments.
16-532-115	Reporting.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-532-065	Rules for implementation of promotional hosting by the Washington hop commission. [Statutory Authority: Chapter 15.65 RCW. 92-09-068, § 16-532-065, filed 4/14/92, effective 5/15/92.] Repealed by 05-15-098, filed 7/15/05, effective 8/15/05. Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW.
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WAC 16-532-010 Definitions. For the purpose of this marketing order:

(1) "Director" means the director of agriculture of the state of Washington or his duly appointed representative.

(2) "Department" means the department of agriculture of the state of Washington.

(3) "Act" means the Washington State Agricultural Enabling Act of 1961 or chapter 15.65 RCW.

(4) "Person" means any person, firm, association or corporation.

(5) "Affected producer" or "producer" means any person who produces hops in commercial quantities in the state of Washington.

(6) "Commercial quantity" means any hops produced for market by a producer in any calendar year.

(7) "Handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing, or distributing hops not produced by him.

(8) "Hop commodity board" hereinafter referred to as "board" means the commodity board formed under the provisions of WAC 16-532-020.

(9) "Hops" means and includes all kinds and varieties of "humulus lupulus" grown, picked and dried in the state of Washington, whether loose, packaged or baled and all oils, extracts and/or lupulin derived therefrom.

(10) "Processed" means and includes all hops which are converted into pellets, extracts, oils, lupulin, and/or other forms, including hops which are frozen in undried form, but excluding whole, dried hop cones, whether loose or baled.

(11) "Marketing season" means the twelve month period beginning with January 1 of any year and ending December 31, both dates being inclusive.

(12) "Producer-handler" means any person who acts both as a producer and as a handler with respect to hops. A producer-handler shall be deemed to be a producer with respect to the hops which he produces and a handler with respect to the hops which he handles, including those produced by himself.

(13) "Affected area" means the state of Washington.

(14) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

(15) "Affected unit" means two hundred pounds net of hops, or the amount of lupulin, extract or oil produced from two hundred pounds net of hops.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-15-098, § 16-532-010, filed 7/15/05, effective 8/15/05. Statutory Authority: RCW 15.65.050. 98-13-122, § 16-532-010, filed 6/17/98, effective 7/18/98; 97-17-096, § 16-532-010, filed 8/20/97, effective 9/20/97. Statutory Authority: RCW 15.65.050 and 15.65.430. 96-15-139, § 16-532-010, filed 7/24/96, effective 8/24/96. Statutory Authority: Chapter 15.65 RCW. 92-09-068, § 16-532-010, filed 4/14/92, effective 5/15/92; Marketing Order Article I, § A, filed 7/1/64.]

WAC 16-532-020 Hop board. (1) Administration. The provisions of this order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

(2) Board membership.

(a) The board shall consist of eight members. Seven members shall be affected producers elected as provided in this section. The director shall appoint one member of the board who is neither an affected producer nor a handler to represent the department and the public.

(b) For the purpose of nomination and election of producer members of the board, the affected area shall be the entire state of Washington.

(3) Board membership qualifications.

The affected producer members of the board shall be practical producers of hops and shall be citizens and residents of the state of Washington, over the age of twenty-five years, each of whom is and has been actually engaged in producing hops within the state of Washington for a period of five years and has during that time derived a substantial portion of his income therefrom and who is not engaged in business, directly or indirectly, as a handler or other dealer.

(4) Term of office.

(a) The term of office for members of the board shall be three years and one-third of the membership as nearly as possible shall be elected each year.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through seven and the member appointed by the director position eight.

(c) The term of office for the initial board members shall be as follows:

Positions one, two, three and ten - until June 30, 1967
Positions four, five and six - until June 30, 1966
Positions seven, eight and nine - until June 30, 1965

(d) Terms of office for the board members serving at the time of the 1992 amendment of this section shall be as follows:

Positions one, two, three and ten - until December 31, 1994
Positions four, five and six - until December 31, 1993
Positions seven, eight and nine - until December 31, 1992

(e) The term of office for the remaining producer board members serving at the time of the effective date of the 2005 amended marketing order shall be as follows:

Positions four, five, and six - until December 31, 2005
Positions one and two - until December 31, 2006
Positions three and seven - until December 31, 2007

(5) Nomination and election of board members. Each year the director shall call for a nomination meeting. Such meeting shall be held at least thirty days in advance of the date set by the director for the election of board members. Notice of every such meeting shall be published in a newspaper of general circulation within the major production area not less than ten days in advance of the date of such meeting and in addition, written notice of every such meeting shall be given to all affected producers according to the list maintained by the director pursuant to RCW 15.65.200 of the act. Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting. Any qualified affected producer may be nominated orally for membership on the board at such nomination meetings. Nominations may also be made within five days after any such meetings by written petition filed with the director signed by not less than five affected producers. At the inception of this order nominations may be made at the issuance hearing.

(6) Election of board members.

(a) Members of the board shall be elected by secret mail ballot within the month of November under the supervision of the director. Affected producer members of the board shall be elected by a majority of the votes cast by the affected producers. Each affected producer shall be entitled to one vote.

(b) If a nominee does not receive a majority of the votes on the first ballot a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(c) Notice of every election for board membership shall be published in a newspaper of general circulation within the major production area not less than ten days in advance of the date of such election. Not less than ten days prior to every election for board membership, the director shall mail a ballot of the candidates to each affected producer entitled to vote whose name appears upon the list of such affected producers maintained by the director in accordance with RCW 15.65.-200. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establishing his qualifications. Nonreceipt of a ballot by any affected producer shall not invalidate the election of any board member.

(7) Vacancies prior to election. In the event of a vacancy on the board, the remaining members shall select a qualified person to fill the unexpired term.

(8) Quorum. A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) **Board compensation.** No member of the board shall receive any salary or other compensation, but each member shall be reimbursed for actual subsistence and traveling expenses incurred through attendance at meetings or other board activities: Provided, That such expenses shall be authorized by resolution by unanimous approval of the board at a regular meeting.

(10) **Powers and duties of the board.** The board shall have the following powers and duties:

(a) To administer, enforce and control the provisions of this order as the designee of the director.

(b) To elect a chairman and such other officers as the board deems advisable.

(c) To employ and discharge at its discretion such personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the attorney general, as the board determines are necessary and proper to carry out the purpose of the order and effectuate the declared policies of the act.

(d) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration and enforcement of the order. Such expenses and costs may be paid by check, draft or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited money with the director in order to defray the costs of formulating the order.

(f) To establish a "hop board marketing revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board except as the amount of petty cash for each day's needs, not to exceed one hundred dollars, shall be deposited each day or as often during the day as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, paid outs, moneys and other financial transactions made and done pursuant to this order. Such records, books and accounts shall be audited at least annually subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year of the state of Washington. A copy of such audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year.

(j) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books and minutes of board meetings shall be kept at such headquarters.

(k) To adopt rules and regulations of a technical or administrative nature, subject to the provisions of chapter 34.05 RCW (Administrative Procedure Act).

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the order and the act, along with the necessary authority and procedure for obtaining such information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon him by the act or order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements or orders.

(o) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

(11) Procedures for board.

(a) The board shall hold regular meetings, at least quarterly, with the time and date thereof to be fixed by resolution of the board.

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least ten days prior to the meeting by written notice to each producer and by regular wire news services and radio-television press.

(c) The board shall establish by resolution, the time, place and manner of calling special meetings of the board with reasonable notice to the members: Provided, That the notice of any special meeting may be waived by a waiver thereof by each member of the board.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW, 05-15-098, § 16-532-020, filed 7/15/05, effective 8/15/05. Statutory Authority: RCW 15.65.050, 99-10-095, § 16-532-020, filed 5/5/99, effective 6/5/99. Statutory Authority: Chapter 15.65 RCW, 92-09-068, § 16-532-020, filed 4/14/92, effective 5/15/92; 88-24-028 (Order 1992), § 16-532-020, filed 12/2/88; Marketing Order Article II, §§ A through K, filed 7/1/64.]

WAC 16-532-040 Assessments and collections. (1) Assessments.

(a) The annual assessment on all varieties of hops shall be one dollar and eighty cents per affected unit.

(b) For the purpose of collecting assessments the board may:

(i) Require handlers to collect producer assessments from producers whose production they handle, and remit the same to the board; or

(ii) Require the person subject to the assessment to give adequate assurance or security for its payment; or

(iii) Require the person subject to the assessment to remit assessments for any hops which are processed prior to the first sale; or

(iv) Require the person subject to the assessment to remit an inventory report for any hops which are not processed or sold prior to December 31 of the year in which they are produced.

(c) Subsequent to the first sale or processing, no affected units shall be transported, carried, shipped, sold, marketed, or

otherwise handled or disposed of until every due and payable assessment herein provided for has been paid and the receipt issued. The foregoing shall include all affected units shipped or sold, both inside and outside the state.

(2) **Collections.** Any moneys collected or received by the board pursuant to the provisions of the order during or with respect to any season or year may be refunded on a pro rata basis at the close of such season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of such marketing agreement or order, to all persons from whom such moneys were collected or received or may be carried over into and used with respect to the next succeeding season, year or period whenever the board finds that the same will tend to effectuate such policies and purposes.

(3) **Penalties.** Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and the order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of such assessment or such other sum on or before the date due, the board may, and is hereby authorized to add to such unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other such sum, the board may bring a civil action against such person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent thereon, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-15-098, § 16-532-040, filed 7/15/05, effective 8/15/05. Statutory Authority: RCW 15.65.050, 97-17-096, § 16-532-040, filed 8/20/97, effective 9/20/97; 95-17-118 (Order 5077), § 16-532-040, filed 8/23/95, effective 9/23/95. Statutory Authority: Chapter 15.65 RCW. 91-15-019 (Order 2090), § 16-532-040, filed 7/10/91, effective 8/10/91. Statutory Authority: RCW 15.65.170, 87-10-059 (Order 1927), § 16-532-040, filed 5/6/87, effective 6/8/87. Statutory Authority: Chapter 15.65 RCW. 83-16-041 (Order 1800), § 16-532-040, filed 7/29/83; 80-05-090 (Order 1686), § 16-532-040, filed 5/1/80; 79-01-045 (Order 1593), § 16-532-040, filed 12/21/78; Order 1332, § 16-532-040, filed 1/17/74; Marketing Order Article IV, §§ A through C, filed 7/1/64.]

WAC 16-532-103 Rules for implementation of promotional hosting by the Washington state hop commodity board (commission)—Definitions. For the purposes of WAC 16-532-105, the following definitions shall apply:

(1) **"Promotional hosting"** as used in these rules means the hosting of individuals and groups of individuals at meetings, meals, and gatherings for the purpose of cultivating trade relations and promoting sales of Washington-grown hops.

(2) **"Hosting"** may include providing meals, refreshments, lodging, transportation, gifts of nominal value, reasonable and customary entertainment, and normal incidental expenses at meetings or gatherings.

[Statutory Authority: Chapter 15.65 RCW, specifically RCW 15.65.305, chapter 34.05 RCW. 05-12-052, § 16-532-103, filed 5/26/05, effective 6/26/05.]

WAC 16-532-105 Rules for implementation of promotional hosting by the Washington state hop board. RCW 15.65.305 and 15.04.200 provide that agricultural commodity boards or commissions shall adopt rules governing promotional hosting expenditures by agricultural commodity board or commission employees, agents, or commissioners. The rules governing promotional hosting expenditures for the Washington state hop board (commission) shall be as follows:

(1) Budget approval. Commission expenditures for agricultural development or trade promotion and promotional hosting shall be pursuant to specific budget items as approved by the commission at annual public hearings on the commission budget.

(2) Officials and agents authorized to make expenditures. The following officials and agents are authorized to make expenditures for agricultural development or trade promotion and promotional hosting in accordance with the provisions of these rules:

(a) Hop board members.

(b) Administrators. Individual commissioners shall make promotional hosting expenditures, or seek reimbursements for those expenditures, only in those instances where the expenditures have been approved by the commission.

(3) Payment and reimbursement. All payments and reimbursements shall be identified and supported by vouchers to which receipts are attached. Voucher forms will be supplied by the commission, and shall require the following information:

(a) Name and position of each person hosted, provided that in case of a group of twenty-five or more persons, then only the name of the group hosted shall be required.

(b) General purpose of the hosting.

(c) Date of hosting.

(d) Location of the hosting.

(e) To whom payment was or will be made.

(f) Signature of person seeking payment or reimbursement.

(4) The chair of the commission and administrator are authorized to approve direct payment or reimbursements submitted in accordance with these rules.

(5) The following persons may be hosted when it is reasonably believed such hosting will cultivate trade relations and promote sales of Washington-grown hops, provided that such hosting shall not violate federal or state conflict of interest laws:

(a) Individuals from private business.

(b) Foreign government officials.

(c) Federal and state officials: Provided, lodging, meals, and transportation will not be provided when such officials may obtain reimbursement for these expenses from their government employer.

(d) The general public, at meetings and gatherings open to the general public.

(e) Commissioners and employees of the commission when their attendance at meetings, meals, and gatherings at which the persons described in (a) through (d) of this subsection are being hosted will cultivate and promote sales of Washington-grown hops.

[Statutory Authority: Chapter 15.65 RCW, specifically RCW 15.65.305, chapter 34.05 RCW. 05-12-052, § 16-532-105, filed 5/26/05, effective 6/26/05.]

WAC 16-532-110 Requirements for collection of assessments. (1) Assessments on all hops marketed or processed shall be paid at the rate specified in WAC 16-532-040 to the hop commodity board (commission) by the first handler receiving or handling such hops for or from a producer. The assessments shall be deducted from the payment to be made by such handler to the producer. If processing occurs before the first sale, the assessment shall be paid by the producer.

(2) Payment of such assessment shall be due and payable on the tenth day of the second calendar month following the receiving or delivery to said first handler or the assumption of control of a producer's hops, or following the date of processing, if processed prior to the first sale, by said first handler or producer.

(3) A report on all hops which are produced during the preceding crop year, including a breakdown of pounds marketed, pounds not processed or marketed, and pounds processed but not marketed prior to December 31 of the year in which those hops are produced shall be submitted by the producer no later than January 31 of the following year.

(4) Any handler or producer failing to pay on or before the due date set forth for payment in this regulation, shall add ten percent to the total amount due as a cost for collection as prescribed in RCW 15.65.440.

[Statutory Authority: Chapter 15.65 RCW, specifically RCW 15.65.047 and 15.65.280, and chapter 34.05 RCW. 05-12-051, § 16-532-110, filed 5/26/05, effective 6/26/05. Statutory Authority: RCW 15.65.050. 97-17-096, § 16-532-110, filed 8/20/97, effective 9/20/97. Statutory Authority: Chapter 15.65 RCW. 92-09-068, § 16-532-110, filed 4/14/92, effective 5/15/92; Regulation 1, filed 10/16/64.]

WAC 16-532-115 Reporting. (1) A report on all hops which are produced during the preceding crop year, including a breakdown of pounds marketed, pounds not processed or marketed, and pounds processed but not marketed prior to December 31 of the year in which those hops are produced, shall be submitted by the producer no later than January 31 of the following year.

(2) A "custom processing" report on all hops processed but not sold will be submitted to the commission by the custom processor on the form prescribed by the commission.

[Statutory Authority: Chapter 15.65 RCW, specifically RCW 15.65.047 and 15.65.280, and chapter 34.05 RCW. 05-12-051, § 16-532-115, filed 5/26/05, effective 6/26/05.]

Chapter 16-540 WAC

MINT

WAC

16-540-005	Marketing order for Washington mint—Policy statement.
16-540-006	Marketing order purposes.
16-540-010	Definitions.
16-540-020	The mint commodity board.
16-540-040	Assessments and collections.
16-540-060	Termination of the order.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-540-030	Marketing order purposes. [Article III, § A, filed 12/20/66, effective 2/1/67.] Repealed by 05-09-013, filed 4/8/05, effective 5/9/05. Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW.
16-540-070	Effective time. [Article VII, filed 12/20/66, effective 2/1/67.] Repealed by 05-09-013, filed 4/8/05, effective 5/9/05. Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW.

WAC 16-540-005 Marketing order for Washington mint—Policy statement. (1) The marketing of mint within this state is in the public interest. It is vital to the continued economic well-being of the citizens of this state and their general welfare that its mint be properly promoted by:

(a) Enabling producers of mint to help themselves in establishing orderly, fair, sound, efficient, and unhampered marketing, grading, and standardizing of the mint they produce; and

(b) Working towards stabilizing the agricultural industry by increasing consumption of mint within the state, the nation, and internationally.

(2) That it is in the overriding public interest that support for the mint industry be clearly expressed, that adequate protection be given to the industry and its activities and operations, and that mint be promoted individually and as part of a comprehensive agricultural industry to:

(a) Enhance the reputation and image of Washington state's mint.

(b) Increase the sale and use of Washington state's mint in local, domestic, and foreign markets.

(c) Protect the public by educating the public in reference to the quality, care, and methods used in the production of Washington state's mint.

(d) Increase the knowledge of the health-giving qualities and dietetic value of Washington state's mint and products.

(e) Support and engage in programs or activities that benefit the planting, production, harvesting, handling, processing, marketing, and uses of mint produced in Washington state.

(3) The director is authorized to implement, administer, and enforce chapter 15.65 RCW through the adoption of this marketing order.

(4) The Washington state mint commodity board exists primarily for the benefit of the people of the state of Washington and its economy and, with oversight by the director, the board is authorized to speak on behalf of Washington state government with regard to mint under the provisions of this marketing order.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-09-013, § 16-540-005, filed 4/8/05, effective 5/9/05.]

WAC 16-540-006 Marketing order purposes. This marketing order is to promote the general welfare of the state and for the purpose of maintaining existing markets or creating new or larger local, domestic, and foreign markets; or increasing production efficiency of mint in Washington state. The Washington state mint commodity board is designated by the director to conduct the following programs in accordance with chapter 15.65 RCW:

(1) To enable producers of mint plants to help themselves develop improved production methods and/or pro-

grams for the control of disease, insects, and weeds associated with mint plant culture and to provide for the dissemination of information to affected producers.

(2) To carry out the purposes of the order the board shall provide for a program in one or more of the following areas:

(a) Provide for aid in research in the production of mint plants and the distilling of mint oil by producers and to expend the necessary funds for such purposes. Insofar as practicable, such research shall be carried out by experiment stations of Washington State University, but if in the judgment of the board said experiment stations do not have adequate facilities for a particular project or if some other research agency has better facilities therefor, the project may be carried out by other research agencies selected by the board.

(b) Provide for collection and dissemination of information pertaining to mint.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-09-013, § 16-540-006, filed 4/8/05, effective 5/9/05.]

WAC 16-540-010 Definitions. Definitions for terms used in this chapter are also found in chapter 15.65 RCW, Washington State Agriculture Commodity Boards Act. For the purpose of this marketing order, the following additional definitions shall apply:

(1) "Director" means the director of agriculture of the state of Washington or his/her duly appointed representative.

(2) "Department" means the department of agriculture of the state of Washington.

(3) "Act" means the Washington State Agricultural Commodity Boards Act or chapter 15.65 RCW.

(4) "Person" means any individual, firm, corporation, limited liability company, trust, association, partnership, society or any other organization of individuals, or any unit or agency of local or state government.

(5) "Affected producer" or "producer" means any person who produces, or causes to be produced in commercial quantities, in the state of Washington, any variety of mint plant from which the essential oil is distilled or extracted. "To produce" means to act as a producer. For the purposes of the mint marketing order, "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the essential oil and its resulting agricultural product or the agricultural product delivered for further production or increase.

(6) "Commercial quantity" means all of the mint plants produced in any calendar year by any producer, from which the essential oil is distilled or extracted.

(7) "Affected handler" means any person who acts as principal or agent or otherwise in buying, selling, marketing or distributing mint oils produced from mint plants not grown by him/her. "Affected handler" does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.

(8) "Producer-handler" means any person who acts both as a producer and as a handler with respect to mint oil. A producer-handler shall be deemed to be a producer with respect to the mint plants and/or oil which he/she produces, and a handler with respect to the mint oil which he/she handles, including those produced by himself/herself.

(9) "Mint oil" means essential oil that is distilled from any variety of mint plant.

(10) "Mint commodity board" hereinafter referred to as "board" or "commission" means the commodity board formed under WAC 16-540-020.

(11) "Marketing season" or "fiscal year" means the twelve-month period beginning with July 1 of any year and ending with the last day of June, both dates being inclusive.

(12) "Affected area" means the state of Washington.

(13) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

(14) "Affected unit" means one pound of mint oil as distilled from mint plants grown by an affected producer.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-09-013, § 16-540-010, filed 4/8/05, effective 5/9/05. Article I, § A, filed 12/20/66, effective 2/1/67.]

WAC 16-540-020 The mint commodity board. (1) Administration. The provisions of this order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

(2) Board membership.

(a) The board shall consist of eight members. Seven members shall be affected producers appointed or elected as provided in this marketing order. The director shall appoint one member of the board who is neither an affected producer nor an affected handler to represent the director. The position representing the director shall be a voting member.

(i) Director-appointed affected producer positions on the board shall be designated as position 1, position 2, position 6, and position 7.

(ii) Elected affected producer positions on the board shall be designated as position 3, position 4, and position 5.

(iii) The position representing the director who is neither an affected producer nor an affected handler shall be designated as position 8.

(b) For the purpose of nomination, appointment, and election of affected producer members of the board, the affected area of the state of Washington shall be divided into two representative districts as follows:

(i) District I shall have four board members, being positions 1, 2, 3 and 4 and shall include the counties of Kittitas, Yakima and Benton.

(ii) District II shall have three board members, being positions 5, 6 and 7 and shall include all other counties located in the state of Washington.

(3) Board membership qualifications.

(a) The affected producer members of the board must be practical producers of mint plants in the district in and for which they are nominated and appointed or elected and each shall be a citizen and resident of the state of Washington, over the age of eighteen years. Each affected producer board member must be and have been actually engaged in producing mint plants within the state of Washington for a period of five years and has during that time derived a substantial portion of his/her income therefrom and is not engaged in business, directly or indirectly, as a handler or other dealer.

(b) The qualifications of members of the board must continue during their term of office.

(4) Term of office.

(a) The term of office for members of the board shall be three years, and one-third of the membership as nearly as possible shall be appointed or elected each year.

(b) The term of office for the initial board members shall be as follows:

Positions one and two - one year

Positions three, four and eight - two years

Positions five, six and seven - three years

(c) Except for the director's representative, no appointed or elected member of the board may serve more than two full consecutive three-year terms.

(d) To accomplish the transition to a commodity board structure where the director appoints a majority of the board members, the names of the currently elected board members in positions one, two, six and seven shall be forwarded to the director for appointment within thirty days of the effective date of this amended marketing order.

(5) Nomination of elected or director-appointed board members.

(a) For the purpose of nominating candidates for appointment or election to board membership the director shall call separate meetings of affected producers.

(b) Each year the director shall call a nomination meeting for both elected and director-appointed affected producer board members in those districts whose board members' term are about to expire. The meeting shall be held at least thirty days in advance of the date set by the director for the election or advisory vote of board members.

(c) Notice of a nomination meeting shall be published in a newspaper of general circulation within the affected district not less than ten days in advance of the date of the meeting and in addition, written notice of every such meeting shall be given to all affected producers within such affected district according to the list maintained by the board pursuant to RCW 15.65.295.

(d) Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting.

(e) Any qualified affected producer may be nominated orally for membership on the board at the nomination meeting. Nominations may also be made within five days after the nomination meeting by written petition filed with the director signed by not less than five affected producers.

(f) When only one nominee is nominated by the affected producers for any position, RCW 15.65.250 shall apply.

(6) Election or advisory vote of board members.

(a) An election or advisory vote shall be conducted by secret ballot under the supervision of the director within the month of June. Each affected producer shall be entitled to one vote.

(b) Elected affected producer members of the board shall be elected by a majority of the votes cast by the affected producers within the affected district. If a nominee does not receive a majority of the votes on the first ballot a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(c) An advisory vote shall be conducted for affected producer board members appointed by the director under the provisions of RCW 15.65.243. The names of the two candidates receiving the most votes in the advisory vote shall be

forwarded to the director for potential appointment to the board. In the event there are only two candidates nominated for a board position, an advisory vote may not be held and the candidates' names shall be forwarded to the director for potential appointment.

(d) Notice of every election or advisory vote for board membership shall be published in a newspaper of general circulation within the affected district not less than ten days in advance of the date of the election or advisory vote. Not less than ten days prior to every election or advisory vote for board membership, the director shall mail a ballot of the candidates to each affected producer entitled to vote whose name appears upon the list of such affected producers maintained by the board pursuant to RCW 15.65.295. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establishing his/her qualifications.

(e) Nonreceipt of a ballot by an affected producer shall not invalidate the election or advisory vote of any board member.

(7) Vacancies.

(a) In the event of a vacancy on the board in an elected position, the remaining members shall select a qualified person to fill the unexpired term. The appointment shall be made at the board's first or second meeting after the position becomes vacant.

(b) In the event of a vacancy in a director-appointed position, the position shall be filled as specified in RCW 15.65.270.

(8) **Quorum.** A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) **Board compensation.** No member of the board shall receive any salary or other compensation, but each member may be compensated in accordance with RCW 43.03.230 and shall be reimbursed for subsistence, lodging, and mileage in accordance with RCW 43.03.050 and 43.03.060, as provided for in RCW 15.65.270. The board may adopt by resolution provisions for reimbursement of actual travel expenses incurred by members and employees of the board in carrying out the provisions of this marketing order pursuant to RCW 15.65.270.

(10) **Powers and duties of the board.** The board shall have the following powers and duties:

(a) To administer, enforce and control the provisions of this order as the designee of the director.

(b) To elect a chairman and such other officers as the board deems advisable.

(c) To employ and discharge at its discretion such personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the attorney general, as the board determines are necessary and proper to carry out the purpose of the order and effectuate the declared policies of the act.

(d) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration and enforcement of the order. Such expenses and costs may be paid by check, draft or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited money with the director in order to defray the costs of formulating the order.

(f) To establish a "mint board revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, except as the amount of petty cash for each day's needs, not to exceed one hundred dollars, shall be deposited each day or as often during the day as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, collections, receipts, deposits, withdrawals, disbursements, paid outs, moneys and other financial transactions made and done pursuant to this order. Such records, books and accounts shall be audited at least annually subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year of the commission. A copy of such audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year. The board, at least sixty days prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget.

(j) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books and minutes of board meetings shall be kept at such headquarters.

(k) To adopt rules of a technical or administrative nature for the operation of the board, subject to the provisions of chapter 34.04 RCW (Administrative Procedure Act).

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the order and the act, along with the necessary authority and procedure for obtaining such information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon him by the act or order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements or orders.

(o) To work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in this order.

(p) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local. Personal service contracts must comply with chapter 39.29 RCW.

(q) To accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies.

(r) To enter into contract or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of mint.

(s) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general.

(t) To engage in appropriate fund-raising activities for the purpose of supporting activities authorized by this order.

(u) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, transportation, distribution, sale, or use of mint including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission.

(v) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of this marketing order and data on the value of each affected producer's production for a minimum three-year period pursuant to RCW 15.65.280.

(w) To maintain a list of the names and addresses of persons who handle mint within the affected area and data on the amount and value of the mint handled for a minimum three-year period by each person pursuant to RCW 15.65.280.

(x) To maintain a list of the names and addresses of all affected persons who produce mint and the amount, by unit, of mint produced during the past three years pursuant to RCW 15.65.295.

(y) To maintain a list of all persons who handle mint and the amount of mint handled by each person during the past three years pursuant to RCW 15.65.295.

(z) To establish a foundation using commission funds as grant money for the purposes established in this marketing order.

(aa) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

(11) Procedures for board.

(a) The board shall hold regular meetings, at least quarterly, with the time and date thereof to be fixed by resolution of the board and the meetings shall be held in accordance with chapter 42.30 RCW (Open Public Meetings Act). Notice of the time and place of regular meetings shall be published on or before January of each year in the *Washington State Register*. Notice of any change to the meeting schedule shall be published in the state register at least twenty days prior to the rescheduled meeting date.

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least ten days prior to the meeting through regular wire news services and radio-television press.

(c) The board shall establish by resolution, the time, place and manner of calling special meetings with reasonable notice to the members: Provided, That the notice to a member of any special meeting may be waived by a waiver from that member of the board. Notice for special meetings shall be in compliance with chapter 42.30 RCW.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-09-013, § 16-540-020, filed 4/8/05, effective 5/9/05. Article II, §§ A-K, filed 12/20/66, effective 2/1/67.]

WAC 16-540-040 Assessments and collections. (1) Assessments.

(a) The fixed annual assessment on all varieties of mint oil subject to this marketing order shall be five cents per pound of oil as weighed by first purchaser.

(b) First purchasers shall collect assessments at time of payment for oil, from producers whose production they handle and remit the same to the board in accordance with procedures adopted by the board. Producers and producer-handlers who ship their oil direct to handlers outside of the state of Washington shall remit assessments to the board at time of shipment.

(2) **Collections.** Any moneys collected or received by the board pursuant to the provisions of this order during or with respect to any season or year may be refunded on a pro rata basis at the close of the season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of the marketing order to all persons from whom moneys were collected or received, or may be carried over into and used with respect to the next succeeding season, year or period whenever the board finds that the same will tend to effectuate the policies and purposes.

(3) **Penalties.** Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and this order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of the assessment or such other sum on or before the date due, the board may, and is hereby authorized to add to such unpaid assessment or sum an amount not exceeding ten percent of the unpaid assessment to defray the cost of enforcing the collecting of it. In the event of failure of a person or persons to pay any due and payable assessment or other sum, the board may bring a civil action against the person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent, and the action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-09-013, § 16-540-040, filed 4/8/05, effective 5/9/05. Statutory Authority: RCW 15.65.050. 96-03-150 (Order 5091), § 16-540-040, filed 1/24/96, effective 2/24/96. Statutory Authority: Chapter 15.65 RCW. 84-10-046 (Order 1823), § 16-540-040, filed 5/2/84; Order 1406, § 16-540-040, filed 7/23/75; Article IV, §§ A-C, filed 12/20/66, effective 2/1/67.]

WAC 16-540-060 Termination of the order. Termination shall be accomplished pursuant to RCW 15.65.183 through 15.65.193.

[2006 WAC Supp—page 74]

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-09-013, § 16-540-060, filed 4/8/05, effective 5/9/05. Article VI, § A, filed 12/20/66, effective 2/1/67.]

Chapter 16-585 WAC

PUGET SOUND SALMON COMMISSION

WAC

16-585-005	Marketing order for Puget Sound gillnet salmon—Policy statement.
16-585-006	Marketing order purposes.
16-585-010	Definitions.
16-585-020	Puget Sound salmon commodity board.
16-585-040	Assessments and collections.
16-585-050	Time—Place—Method for payment and collection of assessments—Landing reports.
16-585-060	Obligations of the board.
16-585-070	Termination of this order.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-585-030	Marketing order purposes. [Statutory Authority: RCW 15.65.050 and chapter 16.65 WAC [15.65 RCW]. 95-15-102, § 16-585-030, filed 7/19/95, effective 8/19/95.] Repealed by 05-13-008, filed 6/3/05, effective 7/4/05. Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW.
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WAC 16-585-005 Marketing order for Puget Sound gillnet salmon—Policy statement. (1) The marketing of Puget Sound gillnet salmon within this state is in the public interest. It is vital to the continued economic well-being of the citizens of this state and their general welfare that Puget Sound gillnet salmon be properly promoted by:

(a) Enabling producers of Puget Sound gillnet salmon to help themselves in establishing orderly, fair, sound, efficient, and unhampered marketing, grading, and standardizing of the Puget Sound gillnet salmon they produce; and

(b) Working towards stabilizing the agricultural industry by increasing consumption of Puget Sound gillnet salmon within the state, the nation, and internationally.

(2) That it is in the overriding public interest that support for the Puget Sound gillnet salmon industry be clearly expressed, that adequate protection be given to the industry and its activities and operations, and that Puget Sound gillnet salmon be promoted individually and as part of a comprehensive agricultural industry to:

(a) Enhance the reputation and image of Puget Sound gillnet salmon.

(b) Increase the sale and use of Puget Sound gillnet salmon in local, domestic, and foreign markets.

(c) Protect the public by educating the public in reference to the quality, care, and methods used in the production of Puget Sound gillnet salmon.

(d) Increase the knowledge of the health-giving qualities and dietetic value of Puget Sound gillnet salmon and products.

(e) Support and engage in programs or activities that benefit the production, harvesting, handling, processing, marketing, and uses of Puget Sound gillnet salmon produced in Washington state.

(3) The director is authorized to implement, administer, and enforce chapter 15.65 RCW through the adoption of this marketing order.

(4) The Washington state Puget Sound salmon commodity board exists primarily for the benefit of the people of the state of Washington and its economy, and with oversight by the director, the board is authorized to speak on behalf of Washington state government with regard to Puget Sound gillnet salmon under the provisions of this marketing order.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-13-008, § 16-585-005, filed 6/3/05, effective 7/4/05.]

WAC 16-585-006 Marketing order purposes. This marketing order is to promote the general welfare of the state and for the purposes of maintaining existing markets or creating new or larger local, domestic, and foreign markets; increasing production efficiency; ensuring a fair regulatory environment; or increasing per capita consumption of Puget Sound gillnet salmon produced in Washington state. The Washington state Puget Sound salmon commodity board is designated by the director to conduct the following programs in accordance with chapter 15.65 RCW:

(1) Establish plans and conduct programs for marketing, labeling, sales, promotion, public relations, and consumer education, or other programs for maintaining present markets or creating new or larger markets for commercially harvested Puget Sound gillnet salmon and salmon products. Such programs shall be directed toward increasing the sale, improving the markets, or promoting Puget Sound gillnet salmon and salmon products without reference to any particular brand or trade name and shall neither make use of false or unwarranted claims on behalf of commercial Puget Sound gillnet salmon products nor disparage the quality, value, sale, or use of any other agricultural commodity. The board may also engage in cooperative efforts in the domestic or foreign marketing of Puget Sound gillnet salmon.

(2) Provide for research in the production, transportation, handling, management, harvest, harvest management, harvest selectivity, harvest regulation or proposed regulation, protection against harvest impact on habitat or other species, processing or marketing of commercial Puget Sound gillnet salmon products and expend the necessary funds for such purposes. Insofar as practicable, such research shall be carried on by experiment stations of Washington State University or the University of Washington, but if in the judgment of the board, said experiment stations do not have the facilities for a particular project or if some other research agency has better facilities therefore, the project may be carried out by other research agencies selected by the board.

(3) Conduct programs for the purpose of providing information and education including:

(a) Marketing information and services for affected producers of Puget Sound gillnet salmon for the verification of grades, standards, weights, tests, and sampling of quality and quantity of Puget Sound gillnet salmon purchased by handlers from affected producers.

(b) Information and services enabling affected producers to meet their resource conservation objectives.

(c) Puget Sound gillnet salmon-related education and training.

(4) Investigate and take necessary action to prevent unfair trade practices and to correct where possible, trade practices which hinder marketing of Puget Sound gillnet salmon products.

(5) Allocation of assessments collected from affected producers shall be made by the board using the following formula:

(a) All operating costs will be borne by all affected producers.

(b) All programs, plans, research, and marketing deemed by the board to be in the collective best interest of all affected producers, regardless of Puget Sound gillnet salmon or salmon product produced, will be borne by all affected producers.

(6) Subject to the provisions of the act, provide information and communicate on matters pertaining to the production, processing, transportation, marketing, or uses of Puget Sound gillnet salmon produced in Washington state to any elected official or officer or employee of any agency.

(7) The director shall approve any plan, programs, and projects concerning:

(a) The establishment, issuance, effectuation, and administration of programs authorized under this section for marketing and promotion of Puget Sound gillnet salmon.

(b) The establishment and effectuation of market research projects, market development projects, or both to the end that marketing and utilization of the affected commodity may be encouraged, expanded, or made more efficient.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-13-008, § 16-585-006, filed 6/3/05, effective 7/4/05.]

WAC 16-585-010 Definitions. Definitions for terms used in this chapter are also found in chapter 15.65 RCW, Washington State Agricultural Commodity Boards Act. For the purpose of this marketing order, the following additional definitions shall apply:

(1) "Act" means the Washington Agricultural Commodity Boards Act or chapter 15.65 RCW.

(2) "Affected area" means Western Washington.

(3) "Affected commodity" means commercial quantities of Puget Sound gillnet salmon.

(4) "Affected producer" means any person who is a commercial harvester of commercial quantities of Puget Sound gillnet salmon.

(5) "Commercial quantity" means any Puget Sound gillnet salmon produced for market.

(6) "Department" means the department of agriculture of the state of Washington.

(7) "Director" means the director of agriculture of the state of Washington or his/her duly appointed representative.

(8) "Fiscal year" means the twelve-month period beginning with July 1 of any year and ending with June 30th, both dates being inclusive.

(9) "Order" means this marketing order.

(10) "Person" means any individual, firm, corporation, limited liability company, trust, association, partnership, society or any other organization of individuals, or any unit or agency of local or state government.

(11) "Production area" means the waters of the state of Washington in and adjacent to the areas of Puget Sound, the San Juan Islands, Georgia Strait, and the Strait of Juan de Fuca east of Cape Flattery, or other lawful areas in which fishing is permitted pursuant to a Puget Sound commercial salmon gillnet license.

(12) "Puget Sound gillnet salmon" means salmon and salmon products which have been harvested by affected producers in the production area pursuant to Puget Sound commercial salmon gillnet license or taken with gear lawfully permitted for use pursuant to Puget Sound commercial salmon gillnet license. "Puget Sound gillnet salmon" does not include privately farmed or cultivated salmon or salmon products nor salmon harvested pursuant to license issued by the various treaty Indian tribes. Nothing herein shall prevent the board from engaging in cooperative marketing of tribal and nontribal salmon.

(13) "Puget Sound salmon commodity board" hereinafter referred to as "board" or "commission" means the commodity board formed under the provisions of this marketing order.

(14) "Purchase" means obtain through sale, exchange, barter, or trade.

(15) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade, whether directly or through agents.

(16) "Handler" or "processor" shall mean those who purchase, process for market, or otherwise obtain from affected producers the affected commodity for further handling or sale in the course of commerce. "Handler" and "processor" includes those who commercially harvest and then obtain from themselves, process, or further handle for subsequent direct sale to the public the affected commodity after having themselves produced that commodity as affected producers. "Handler" does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.

(17) "Process" means to prepare the affected commodity or product therefrom by filleting, heading, gutting, canning, cooking, smoking, fermenting, dehydrating, drying or packaging.

(18) "Affected unit" means one pound landed weight of salmon.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-13-008, § 16-585-010, filed 6/3/05, effective 7/4/05. Statutory Authority: RCW 15.65.060 and 15.65.180. 02-14-091, § 16-585-010, filed 7/1/02, effective 8/1/02. Statutory Authority: RCW 15.65.050 and chapter 16.65 WAC [15.65 RCW]. 95-15-102, § 16-585-010, filed 7/19/95, effective 8/19/95.]

WAC 16-585-020 Puget Sound salmon commodity board. (1) Administration. The provisions of this marketing order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

(2) Board membership. The board shall consist of seven members, six of whom shall be affected producers appointed or elected as provided in this section. The director shall appoint one additional member to the board who is not an affected producer to represent the director. The position representing the director shall be a voting member.

(a) Director-appointed affected producer positions on the board shall be designated as position one, position two, and position three.

(b) Elected affected producer positions on the board shall be designated as position four, position five, and position six.

(c) The position representing the director who is not an affected producer shall be designated as position seven.

(3) Qualifications for board membership. The producer members of the board must be practical producers of the affected commodity and must be a citizen and resident of this state, over the age of eighteen years. Each affected producer board member must be and have been actually engaged in producing such commodity within the state of Washington for a period of five years and has during that period derived a substantial portion of his/her income therefrom and who is not primarily engaged in business, directly or indirectly, as a handler or other dealer. The qualification of members of the board as herein set forth must continue during their terms of office.

(4) Term of office.

(a) The term of office for members of the board shall be three years. One-third of the membership as nearly as possible shall be appointed or elected each year.

(b) The term of office for the initial board members shall be as follows:

Positions one and four shall be for one year from the date of first election or until the first subsequent annual election is held.

Positions two and five shall be for two years from the date of first election or until the second subsequent annual election is held.

Positions three and six shall be for three years from the date of first election or until the third subsequent annual election is held.

(c) To accomplish the transition to a commodity board structure where the director appoints a majority of the board members, the names of the currently elected board members in positions one, two, and three shall be forwarded to the director for appointment within thirty days of the effective date of this amended marketing order.

(5) Nominations of elected or director-appointed board members. Each year the director shall call a nomination meeting for elected or director-appointed affected producer board members. The meeting(s) shall be held at least thirty days in advance of the date set by the director for the election or advisory vote of board members.

(a) Notice of every nomination meeting shall be published in a newspaper of general circulation within the affected area defined in this marketing order not less than ten days in advance of the date of the meeting; and, in addition, written notice of every meeting shall be given to all affected producers according to the list maintained by the board pursuant to RCW 15.65.295.

(b) Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting.

(c) Any qualified affected producer may be nominated orally for membership on the board at a nomination meeting. Nominations may also be made within five days after the meeting by written petition filed with the director signed by not less than five affected producers.

(d) If the board moves and the director approves that the nomination meeting procedure be deleted, the director shall give notice of the open commission position(s) by mail to all affected producers. The notice shall call for nominations in accordance with this marketing order and shall give the final date for filing nominations which shall not be less than twenty days after the notice was mailed.

(e) When only one nominee is nominated by the affected producers for any position, RCW 15.65.250 shall apply.

(6) Election or advisory vote of board members.

(a) An election or advisory vote shall be conducted by secret ballot under the supervision of the director. Each affected producer shall be entitled to one vote.

(b) Elected affected producer members of the board shall be elected during the month of February of each year by a majority of the votes cast by the affected producers. If a nominee does not receive a majority of the votes on the first ballot, a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(c) An advisory vote shall be conducted for affected producer board members appointed by the director under the provisions of RCW 15.65.243 during the month of January of each year. The names of the two candidates receiving the most votes in the advisory vote shall be forwarded to the director for potential appointment to the board. In the event there are only two candidates nominated for a board position, an advisory vote may not be held and the candidates' names shall be forwarded to the director for potential appointment.

(d) Notice of every election or advisory vote for board membership shall be published in a newspaper of general circulation within the affected area defined in this marketing order not less than ten days in advance of the date of the election or advisory vote. Not less than ten days prior to every election or advisory vote for board membership, the director shall mail a ballot of the candidates to each affected producer entitled to vote whose name appears upon the list of such affected producers maintained by the board pursuant to RCW 15.65.295. Any other producer entitled to vote may obtain a ballot by application to the director upon establishing his/her qualifications.

(e) Nonreceipt of a ballot by any person entitled to vote shall not invalidate the election or advisory vote of a board member.

(7) Vacancies.

(a) In the event of a vacancy on the board in an elected position, the board shall appoint a qualified person to fill the unexpired term. The appointment shall be made at the board's first or second meeting after the position becomes vacant.

(b) In the event of a vacancy in a director-appointed position, the position shall be filled as specified in RCW 15.65.270.

(8) Quorum. A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) Board compensation. No member of the board shall receive any salary or other compensation, but each member may be compensated for each day in actual attendance at or traveling to and from meetings of the board or on special assignment for the board in accordance with RCW 43.03.230 together with travel expenses in accordance with RCW 43.03.050 and 43.03.060. The board may adopt, by resolution, provisions for reimbursement of actual travel expenses incurred by members of the board in carrying out the provisions of this marketing order pursuant to RCW 15.65.270. A board member may, in the discretion of the board, serve and be compensated as an employee of the commission.

(10) Powers and duties of the board. The board shall have the following powers and duties:

(a) To administer, enforce, and control the provisions of this order as the designee of the director;

(b) To elect a chairperson and other officers as it deems advisable;

(c) To employ and discharge at its discretion such assistance and personnel as the board determines necessary and proper to carry out the purpose of the order and to effectuate the policies of the act;

(d) To pay from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration, and enforcement of the order and rules adopted under the order. Expenses may be paid by check, draft, or voucher in such form and in such manner and upon the signature of the person as the board may prescribe;

(e) To reimburse any applicant who has deposited funds with the director in order to defray the costs of formulating the order;

(f) To establish a fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, except the amount of petty cash for each day's needs, not to exceed one hundred dollars, shall be deposited each day;

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, disbursements, moneys, and other financial transactions made and done pursuant to this order. Records, books, and accounts shall be audited as provided in the act subject to procedures and methods lawfully prescribed by the state auditor. Books and accounts shall be closed as of the last day of each fiscal year. A copy of the audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor, and each member of the board;

(h) To require bond of board members and employees of the board in positions of trust in an amount the board deems necessary. Premiums for a bond or bonds shall be paid by the board from assessments collected. A bond shall not be necessary if any board member or employee is covered by any blanket bond covering officials or employees of the state of Washington;

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year. At least sixty days prior to the beginning of its fiscal year, the board shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget;

(j) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books, and minutes of board meetings shall be kept at such headquarters;

(k) To recommend to the director, administrative rules, orders and amendments thereto for the exercise of the director's power in connection with this marketing order;

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of this marketing order and the act, along with the

necessary authority and procedure for obtaining such information;

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction, or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon the person by the act or this order;

(n) To confer with and cooperate with the legally constituted authorities of other states of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements, or orders;

(o) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section;

(p) To sue or be sued;

(q) To borrow money and incur indebtedness;

(r) To work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in this order;

(s) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local. Personal service contracts must comply with chapter 39.29 RCW;

(t) To accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies;

(u) To enter into contracts or agreements for research in the production, processing, transportation, marketing, use, or distribution of Puget Sound gillnet salmon;

(v) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general;

(w) To engage in appropriate fund-raising activities for the purpose of supporting activities authorized by this marketing order;

(x) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, manufacture, regulation, transportation, distribution, sale, or use of Puget Sound gillnet salmon including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission;

(y) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of this marketing order and data on the value of each affected producer's production for a minimum three-year period pursuant to RCW 15.65.280;

(z) To maintain a list of the names and addresses of persons who handle Puget Sound gillnet salmon within the affected area and data on the amount and value of the Puget Sound gillnet salmon handled for a minimum three-year period by each person pursuant to RCW 15.65.280;

(aa) To maintain a list of names and addresses of all affected persons who produce Puget Sound gillnet salmon and the amount, by unit, of Puget Sound gillnet salmon produced during the past three years pursuant to RCW 15.65.295;

(bb) To maintain a list of all persons who handle Puget Sound gillnet salmon and the amount of Puget Sound gillnet

salmon handled by each person during the past three years pursuant to RCW 15.65.295;

(cc) To establish a foundation using commission funds as grant money for the purposes established in this marketing order pursuant to RCW 15.65.043.

(11) Procedures for board.

(a) The board shall hold regular meetings, at least semi-annually, and such meetings shall be held in accordance with chapter 42.30 RCW (Open Public Meetings Act). Notice of the time and place of regular meetings shall be published on or before January of each year in the *Washington State Register*. Notice of any change to the meeting schedule shall be published in the state register at least twenty days prior to the rescheduled meeting date.

(b) The board shall hold an annual membership meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least ten days prior to the meeting by written notice to each producer and by notifying the regular news media.

(c) The board shall establish by resolution, the time, place, and manner of calling special meetings of the board with reasonable notice to the board members and affected producers. Notice for special meetings shall be in compliance with chapter 42.30 RCW.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-13-008, § 16-585-020, filed 6/3/05, effective 7/4/05. Statutory Authority: RCW 15.65.060 and 15.65.180. 02-14-091, § 16-585-020, filed 7/1/02, effective 8/1/02. Statutory Authority: RCW 15.65.050 and chapter 16.65 WAC [15.65 RCW]. 95-15-102, § 16-585-020, filed 7/19/95, effective 8/19/95.]

WAC 16-585-040 Assessments and collections. (1)

The assessment on the affected commodity harvested in the production area shall be as follows: Two percent of the landed value of Puget Sound gillnet salmon shall be assessed to the producer.

(2) For the purpose of collecting assessments, the board may require the person subject to the assessment or the person responsible for collection of producer assessments to give adequate assurance or security for its collection or payment.

(3) All persons subject to the provisions of this marketing order shall make and render reports and furnish information to the director or the board as required under the act or this marketing order. Any financial and commercial information and records obtained by the director or commission are exempt from public disclosure under the provisions of RCW 15.65.203 and 42.17.31907, but shall not be disclosed to any other person save to a person with like right to obtain the same or any attorney employed by the director or the commission to give legal advice thereon or by court order.

(4) For the purpose of assuring and verifying compliance with the recordkeeping and reporting requirements of this order and the act, the director and the board through its duly authorized employees, shall have access to and the authority to audit and examine such reports or information.

(5) Any moneys collected or received by the board pursuant to the provisions of this marketing order during or with respect to any year, may be refunded on a pro rata basis at the close of each year or at the close of a period as the board determines to be reasonably adapted to effectuate the

declared policies of the act and the purposes of this marketing order, to all persons from whom such moneys were collected or received or may be carried over into and used with respect to the next succeeding year.

(6) Any due and payable assessment herein levied in a specified amount as provided under the act and this marketing order and any assessment which is required hereunder to be collected, shall constitute a personal debt of every person so assessed, responsible for collection, or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of assessment or other sum on or before the date due, the board may, and is hereby authorized to, add to the unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the unpaid assessment. In the event of failure of a person or persons to pay any due and payable assessment or other sum, the board may bring a civil action against a person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent plus the costs and expenses of suit and a reasonable attorney's fee therein, and the action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

(7) Assessments may, with the consent of the affected producer, be collected prospectively.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-13-008, § 16-585-040, filed 6/3/05, effective 7/4/05. Statutory Authority: RCW 15.65.050 and chapter 16.65 WAC [15.65 RCW]. 95-15-102, § 16-585-040, filed 7/19/95, effective 8/19/95.]

WAC 16-585-050 Time—Place—Method for payment and collection of assessments—Landing reports.

The following procedure is established for the reporting and paying of assessments:

(1) At the time of Puget Sound gillnet salmon landing, first sale or completion of a Washington department of fish and wildlife landing receipt (fish ticket), the producer shall pay and the handler shall collect and deduct from the price paid to the producer the producer's two percent assessment on the landed value of the Puget Sound gillnet salmon. This collection and deduction shall be accurately reported on the fish ticket.

(2) No later than thirty days from the last day of any month in which any Puget Sound gillnet salmon has been obtained by a handler, each such handler shall:

(a) Remit to the board all sums required to be collected and deducted from affected producers upon their landings during that month for a total of two percent of the landed value of Puget Sound gillnet salmon obtained by that handler during that month.

(b) Provide to the board with such remittance a report indicating the full name, address, and commercial salmon fishing license number of each affected producer from whom the said handler has purchased or obtained affected commodity during the said month and for each such affected producer, indicate the landed value of the Puget Sound gillnet salmon purchased or obtained, and the amount of the producer's two percent assessment which has been collected from that producer.

(3) The board may require cold storage facilities storing Puget Sound gillnet salmon to file with the board information and reports regarding the amount of the affected commodity in storage, the date of receipt, and the name, address, and commercial salmon fishing license number of each such owner, and may require that such Puget Sound gillnet salmon not be shipped from a cold storage facility until the facility has been notified by the commission that the commodity owner has paid the commission for any assessments imposed by this marketing order.

(4) All assessments due from affected producers under this order shall be payable at the time of completion of a Washington department of fish and wildlife landing receipt (fish ticket) and shall be paid by the producer and collected by the handler at that time and shall be remitted to the board as provided in this order.

(5) Producer-handlers shall pay the producer assessments and shall fulfill all the responsibilities of handlers and producers under this order including the collection, record-keeping, reporting, and remittance of assessments.

(6) When, in the judgment of the board, a particular handler or producer-handler has demonstrated its unreliability to make the collection or remittance of the producer assessments called for in this order, the board may require that said handler or producer-handler not transport, carry, ship, sell, market or otherwise handle or dispose of any of the affected commodity until every due and payable assessment provided for under this order has been paid to the board and the receipt issued.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-13-008, § 16-585-050, filed 6/3/05, effective 7/4/05. Statutory Authority: RCW 15.65.050 and chapter 16.65 WAC [15.65 RCW]. 95-15-102, § 16-585-050, filed 7/19/95, effective 8/19/95.]

WAC 16-585-060 Obligations of the board. Obligations incurred by the board or employees or agents thereof pertaining to their performance or nonperformance or misperformance of any matters or things authorized, required, or permitted them by the act or this order, and any other liabilities or claims against them or any of them shall be enforced in the same manner as if the whole organization under this order were a corporation. No liability for the debts or actions of the board, employees, or agents incurred in their official capacity under this order shall exist either against the board, officers, employees, or agents in their individual capacity, nor against the state of Washington or any subdivision or instrumentality thereof nor against any other organization, administrator, or board (or employee or agent thereof) established pursuant to this act or the assets thereof. The board, and its agents and employees, shall not be held responsible individually in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person, or employee, except for their own individual acts of dishonesty or crime. No such person or employee shall be held responsible individually for any act or omission of any other board, member of the board, or other person. The liability of the members of the board shall be several and not joint and no member shall be liable for the default of any other member.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-13-008, § 16-585-060, filed 6/3/05, effective 7/4/05. Statutory Authority: RCW

15.65.050 and chapter 16.65 WAC [15.65 RCW]. 95-15-102, § 16-585-060, filed 7/19/95, effective 8/19/95.]

WAC 16-585-070 Termination of this order. Termination shall be accomplished pursuant to RCW 15.65.183 through 15.65.193.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. 05-13-008, § 16-585-070, filed 6/3/05, effective 7/4/05. Statutory Authority: RCW 15.65.050 and chapter 16.65 WAC [15.65 RCW]. 95-15-102, § 16-585-070, filed 7/19/95, effective 8/19/95.]

Chapter 16-623 WAC

COMMISSION MERCHANT ACT—LICENSING FEES, PROOF OF PAYMENT, CARGO MANIFESTS AND REGISTRATION OF ACREAGE COMMITMENTS

WAC

16-623-001	What is the purpose of this chapter?
16-623-005	What definitions are important to this chapter?
16-623-010	What requirements apply to licenses for commission merchants, dealers, brokers, cash buyers and agents?
16-623-015	What securities are acceptable in lieu of a surety bond?
16-623-020	What are the recordkeeping requirements for commission merchants, dealers and cash buyers?
16-623-030	Is a cargo manifest required for transporting hay and straw?
16-623-040	How must a processor's plant capacity be reported?
16-623-050	What notification requirements apply to grower-processor commitments?
16-623-060	How are contract volumes established?

WAC 16-623-001 What is the purpose of this chapter? The purpose of this chapter is to implement and clarify

selected portions of chapter 20.01 RCW. This chapter addresses four topics.

(1) Licensing fees and requirements for commission merchants, dealers, brokers, cash buyers or agents.

(2) Recordkeeping and proof of payment requirements for licensees.

(3) Cargo manifests and shipping documents that accompany hay and straw during transportation.

(4) Rules governing the registration of processor acreage commitments made to producers of annual crops.

[Statutory Authority: Chapters 20.01 and 34.05 RCW, 2003 1st sp.s. c 25. 05-09-094, § 16-623-001, filed 4/20/05, effective 5/21/05. Statutory Authority: RCW 20.01.040, [20.01.]125, [20.01.]370, [20.01.]380, [20.01.]410, [20.01.]510. 00-22-071, § 16-623-001, filed 10/30/00, effective 11/30/00.]

WAC 16-623-005 What definitions are important to this chapter? In addition to the definitions listed in RCW 20.01.010, the following definitions are important to understanding this chapter:

"Department" means the Washington state department of agriculture.

"Director" means the director of the Washington state department of agriculture or their designee.

[Statutory Authority: Chapters 20.01 and 34.05 RCW, 2003 1st sp.s. c 25. 05-09-094, § 16-623-005, filed 4/20/05, effective 5/21/05.]

WAC 16-623-010 What requirements apply to licenses for commission merchants, dealers, brokers, cash buyers and agents? (1) The following table summarizes the license fee requirements for commission merchants, dealers, brokers, cash buyers, or agents:

License Class	License Fee	Annual Expiration Date	Annual Renewal Date	Penalty Amount for Not Renewing Before January 1
Commission merchant	\$450.00	December 31	Before January 1	A late renewal penalty of twenty-five percent of the total fees
Dealer	\$450.00	December 31	Before January 1	A late renewal penalty of twenty-five percent of the total fees
Limited dealer	\$250.00	December 31	Before January 1	A late renewal penalty of twenty-five percent of the total fees
Broker	\$300.00	December 31	Before January 1	A late renewal penalty of twenty-five percent of the total fees
Cash buyer	\$100.00	December 31	Before January 1	A late renewal penalty of twenty-five percent of the total fees
Agent	\$50.00	December 31	Before January 1	A late renewal penalty of twenty-five percent of the total fees
Additional license per class	\$25.00	December 31	Before January 1	A late renewal penalty of twenty-five percent of the total fees

(2) A licensee can be licensed in more than one class for an additional fee of twenty-five dollars per class. The principal license must be in the class requiring the greatest fee and all requirements must be met for each class in which a license is being requested.

(3) All fees and penalties must be paid before the department issues a license.

(4) Applications for licenses are considered incomplete unless an effective bond or other acceptable form of security is also filed with the director.

(5) Licenses may be obtained by contacting the department's commission merchants program at 360-902-1854 or e-

mail at: commerch@agr.wa.gov. Application forms, bond forms, and forms for securities in lieu of a surety bond are available on the department's website at: <http://www.agr.wa.gov/Inspection/CommissionMerchants/default.htm>.

[Statutory Authority: Chapters 20.01 and 34.05 RCW, 2003 1st sp.s. c 25. 05-09-094, § 16-623-010, filed 4/20/05, effective 5/21/05. Statutory Authority: RCW 20.01.040, [20.01.]125, [20.01.]370, [20.01.]380, [20.01.]410, [20.01.]510. 00-22-071, § 16-623-010, filed 10/30/00, effective 11/30/00.]

WAC 16-623-015 What securities are acceptable in lieu of a surety bond? An applicant or licensee may file an assignment of savings or irrevocable letter of credit with the director in lieu of a surety bond. These instruments are sub-

ject to the same requirements and provisions as bonds stated in RCW 20.01.210, 20.01.211, and 20.01.212.

[Statutory Authority: Chapters 20.01 and 34.05 RCW, 2003 1st sp.s. c 25. 05-09-094, § 16-623-015, filed 4/20/05, effective 5/21/05.]

WAC 16-623-020 What are the recordkeeping requirements for commission merchants, dealers and cash buyers? Every commission merchant, dealer, and cash buyer who takes possession of or purchases agricultural products must keep accurate records. The recordkeeping requirements for:

(1) Commission merchants are specified in RCW 20.01.370;

(2) Dealers and cash buyers are specified in RCW 20.01.380; and

(3) Brokers are specified in RCW 20.01.400.

[Statutory Authority: Chapters 20.01 and 34.05 RCW, 2003 1st sp.s. c 25. 05-09-094, § 16-623-020, filed 4/20/05, effective 5/21/05. Statutory Authority: RCW 20.01.040, [20.01.]125, [20.01.]370, [20.01.]380, [20.01.]410, [20.01.]510. 00-22-071, § 16-623-020, filed 10/30/00, effective 11/30/00.]

WAC 16-623-030 Is a cargo manifest required for transporting hay and straw? (1) All commission merchants, dealers, their employees or licensed agents must have a copy of the cargo manifest with each load when transporting hay or straw on equipment owned or under their control.

(2) Any common carrier transporting hay or straw for a commission merchant or dealer may use shipping documents required by either the Washington public utilities and transportation commission or interstate commerce commission instead of the department form described in subsection (5) of this section.

(3) Any common carriers, commission merchants, dealers, their employees or licensed agents transporting hay or straw may use shipping documents other than the department form described in subsection (5) of this section if they have been reviewed and authorized by the department before their use.

(4) Unless the exceptions in subsections (2) and (3) of this section apply, the manifest must be on a form prescribed by the director which is available from the department.

(5) At a minimum, the form requires the following information:

(a) Purchaser's name and address;

(b) Hauler's name and address;

(c) Business or person the products were received from and their address;

(d) The commodity, unit count, unit price, total price, total weight, tare weight and weight of the commodity;

(e) Terms of the settlement;

(f) Date;

(g) Signature of the licensee or their agent; and

(h) Signature of the consignor or their authorized representative.

[Statutory Authority: Chapters 20.01 and 34.05 RCW, 2003 1st sp.s. c 25. 05-09-094, § 16-623-030, filed 4/20/05, effective 5/21/05. Statutory Authority: RCW 20.01.040, [20.01.]125, [20.01.]370, [20.01.]380, [20.01.]410, [20.01.]510. 00-22-071, § 16-623-030, filed 10/30/00, effective 11/30/00.]

WAC 16-623-040 How must a processor's plant capacity be reported? (1) According to RCW 20.01.510, a

processor must report the daily total capacity in tons, cases or other legal and customary measure for:

(a) Each crop; and

(b) All plants that process any Washington agricultural product.

(2) For each processing plant reported, the report must include the:

(a) Name;

(b) Site address;

(c) Business address; and

(d) Name of the person(s) who may receive legal service.

[Statutory Authority: Chapters 20.01 and 34.05 RCW, 2003 1st sp.s. c 25. 05-09-094, § 16-623-040, filed 4/20/05, effective 5/21/05. Statutory Authority: RCW 20.01.040, [20.01.]125, [20.01.]370, [20.01.]380, [20.01.]410, [20.01.]510. 00-22-071, § 16-623-040, filed 10/30/00, effective 11/30/00.]

WAC 16-623-050 What notification requirements apply to grower-processor commitments? (1)(a) Within ten days after a commitment with a processor is made, a grower must notify the director that they have an oral commitment for a specified amount of product.

(b) The grower's notification to the director must be in writing and sent by certified mail to the Washington State Department of Agriculture, c/o the Commission Merchants Program, P.O. Box 42591, Olympia, Washington 98504-2591.

(2) Once the grower's notification is received, the director has five days to notify the processor by certified mail.

(3) Regardless of whether or not the processor confirms the director's notice, the processor must simultaneously notify the director and grower, by certified mail, within ten days of receipt of the director's notice.

(4) The processor may accept all, none, or any portion of the acreage and/or tonnage stated in the notice.

(5) Once the oral commitment is confirmed for all or for a portion of the acreage and/or tonnage, the processor is committed to receive the acreage or tonnage specified.

(6) If the contract is the processor's standard contract and the terms of the contract, price or other conditions later offered to the grower are unacceptable to the grower, then the agreement is not binding upon the processor.

[Statutory Authority: Chapters 20.01 and 34.05 RCW, 2003 1st sp.s. c 25. 05-09-094, § 16-623-050, filed 4/20/05, effective 5/21/05. Statutory Authority: RCW 20.01.040, [20.01.]125, [20.01.]370, [20.01.]380, [20.01.]410, [20.01.]510. 00-22-071, § 16-623-050, filed 10/30/00, effective 11/30/00.]

WAC 16-623-060 How are contract volumes established? For contracts purchasing the production of a specific number of acres, the:

(1) Amount contracted for will be based on the crop yield for the comparable area for the most recent five-year average; and

(2) Crop yield will be determined by using data from the USDA's National Agricultural Statistics Service.

[Statutory Authority: Chapters 20.01 and 34.05 RCW, 2003 1st sp.s. c 25. 05-09-094, § 16-623-060, filed 4/20/05, effective 5/21/05. Statutory Authority: RCW 20.01.040, [20.01.]125, [20.01.]370, [20.01.]380, [20.01.]410, [20.01.]510. 00-22-071, § 16-623-060, filed 10/30/00, effective 11/30/00.]

Chapter 16-662 WAC

WEIGHTS AND MEASURES—NATIONAL HANDBOOKS

WAC

16-662-100	What is the purpose of this chapter?
16-662-105	What national weights and measures standards are adopted by the Washington state department of agriculture (WSDA)?
16-662-110	Does the WSDA modify <i>NIST Handbook 44</i> ?
16-662-115	Does the WSDA modify <i>NIST Handbook 130</i> ?
16-662-120	How does the WSDA conduct inspections of the net contents of packaged goods under <i>NIST Handbook 133</i> ?
16-662-125	When does WSDA take enforcement action when conducting price verification inspections under <i>NIST Handbook 130</i> ?

WAC 16-662-100 What is the purpose of this chapter? (1) This chapter establishes requirements for the state of Washington that are reasonably consistent with the uniform rules adopted by the National Conference on Weights and Measures and that are in effect in other states.

(2) This chapter applies specifically to the:

(a) Uniform specifications, tolerances and other technical requirements for weighing and measuring devices addressed in the *National Institute of Standards and Technology (NIST) NIST Handbook 44*;

(b) Uniform procedures for checking the net contents of packaged goods addressed in *NIST Handbook 133*;

(c) Uniform packaging and labeling regulation addressed in *NIST Handbook 130*;

(d) Uniform regulation for the method of sale of commodities addressed in *NIST Handbook 130*; and

(e) Uniform examination procedure for price verification addressed in *NIST Handbook 130*.

(3)(a) *NIST Handbook 44*, *NIST Handbook 130* and *NIST Handbook 133*, may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. They are also available on the National Institute of Standards and Technology web site at <http://ts.nist.gov/ts/htdocs/230/235/owmhome.htm>.

(b) For information regarding the contents and application of these publications, contact the weights and measures program at the Washington State Department of Agriculture, P.O. Box 42560, Olympia, Washington 98504-2560, telephone number 360-902-1857, or e-mail wts&measures@agr.wa.gov.

[Statutory Authority: Chapters 19.94 and 34.05 RCW. 05-10-088, § 16-662-100, filed 5/4/05, effective 6/4/05; 03-08-017, § 16-662-100, filed 3/25/03, effective 4/25/03. Statutory Authority: Chapter 19.94 RCW. 97-12-075, § 16-662-100, filed 6/4/97, effective 7/5/97.]

WAC 16-662-105 What national weights and measures standards are adopted by the Washington state department of agriculture (WSDA)? The WSDA adopts the following national standards:

[2006 WAC Supp—page 82]

National standard for:	Contained in the:
(1) The specifications, tolerances, and other technical requirements for the design, manufacture, installation, performance test, and use of weighing and measuring equipment	2005 Edition of <i>NIST Handbook 44 - Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices</i>
(2) The procedures for checking the accuracy of the net contents of packaged goods	Fourth Edition (January 2005) of <i>NIST Handbook 133 - Checking the Net Contents of Packaged Goods</i>
(3) The requirements for packaging and labeling, method of sale of commodities, and the examination procedures for price verification	2005 Edition of <i>NIST Handbook 130 - Uniform Laws and Regulations in the area of legal metrology and engine fuel quality</i> , specifically:
(a) Weights and measures requirements for all food and nonfood commodities in package form	<i>Uniform Packaging and Labeling Regulation</i> as adopted by the National Conference on Weights and Measures and published in <i>NIST Handbook 130</i> , 2005 Edition
(b) Weights and measures requirements for the method of sale of food and nonfood commodities	<i>Uniform Regulation for the Method of Sale of Commodities</i> as adopted by the National Conference on Weights and Measures and published in <i>NIST Handbook 130</i> , 2005 Edition
(c) Weights and measures requirements for price verification	<i>Examination Procedure for Price Verification</i> as adopted by the National Conference on Weights and Measures and published in <i>NIST Handbook 130</i> , 2005 Edition

[Statutory Authority: Chapters 19.94 and 34.05 RCW. 05-10-088, § 16-662-105, filed 5/4/05, effective 6/4/05; 04-12-025, § 16-662-105, filed 5/26/04, effective 6/26/04; 03-08-017, § 16-662-105, filed 3/25/03, effective 4/25/03. Statutory Authority: Chapter 19.94 RCW. 02-12-029, § 16-662-105, filed 5/29/02, effective 6/29/02. Statutory Authority: RCW 19.94.195. 01-16-005, § 16-662-105, filed 7/19/01, effective 8/19/01; 00-14-005, § 16-662-105, filed 6/23/00, effective 7/24/00; 99-07-056, § 16-662-105, filed 3/16/99, effective 4/16/99; 98-13-072, § 16-662-105, filed 6/15/98, effective 7/16/98. Statutory Authority: Chapter 19.94 RCW. 97-12-075, § 16-662-105, filed 6/4/97, effective 7/5/97.]

WAC 16-662-110 Does the WSDA modify *NIST Handbook 44*? The WSDA adopts the following modifications to *NIST Handbook 44*, which is identified in WAC 16-662-105(1):

Modified Section:	Modification:
(1) General Code: Section G-UR.4.1. Maintenance of Equipment	In the last sentence of G-UR.4.1., Maintenance of Equipment, change the words "device user" to

Modified Section:	Modification:
	"device owner or operator." As a result of this modification, the last sentence of G-UR.4.1. will read: "Equipment in service at a single place of business found to be in error predominantly in a direction favorable to the device owner or operator shall not be considered "maintained in a proper operating condition."
(2) Scales: Section UR.3.7. Minimum Load on a Vehicle Scale	At the end of UR.3.7.(a) add "and homeowner refuse." As a result of this modification, UR.3.7.(a) will read: "10 d when weighing scrap material for recycling and homeowner refuse,"

[Statutory Authority: Chapters 19.94 and 34.05 RCW. 05-10-088, § 16-662-110, filed 5/4/05, effective 6/4/05; 03-08-017, § 16-662-110, filed 3/25/03, effective 4/25/03. Statutory Authority: RCW 19.94.195. 01-16-005, § 16-662-110, filed 7/19/01, effective 8/19/01; 99-07-056, § 16-662-110, filed 3/16/99, effective 4/16/99. Statutory Authority: Chapter 19.94 RCW. 97-12-075, § 16-662-110, filed 6/4/97, effective 7/5/97.]

WAC 16-662-115 Does the WSDA modify *NIST Handbook 130*? The WSDA adopts the following modifications to the *Uniform Regulation for the Method of Sale of Commodities* requirements published in *NIST Handbook 130*, identified in WAC 16-662-105 (3)(b):

Modified Section:	Modification:
(1) Section 2.20 Gasoline-Oxygenate Blends	Delete Section 2.20 because the requirements for this subject are addressed in RCW 19.94.505 and chapter 16-657 WAC
(2) Section 2.23 Animal Bedding	Add a new subsection, which reads as follows: 2.23.1 Sawdust, Barkdust, Decorative Wood Particles, and Similar Products. — As used in this subsection, "unit" means a standard volume equal to 200 cubic feet. When advertised, offered for sale, or sold within Washington state, quantity representations for sawdust, barkdust, decorative wood particles, and similar loose bulk materials must be in cubic measures or units and fractions thereof.

[Statutory Authority: Chapters 19.94 and 34.05 RCW. 05-10-088, § 16-662-115, filed 5/4/05, effective 6/4/05; 03-08-017, § 16-662-115, filed 3/25/03, effective 4/25/03. Statutory Authority: RCW 19.94.195. 98-13-072, § 16-662-115, filed 6/15/98, effective 7/16/98. Statutory Authority: Chapter 19.94 RCW. 97-12-075, § 16-662-115, filed 6/4/97, effective 7/5/97.]

WAC 16-662-120 How does the WSDA conduct inspections of the net contents of packaged goods under *NIST Handbook 133*? WSDA inspects packages using the Used Dry Tare procedures outlined in *NIST Handbook 133*.

[Statutory Authority: Chapters 19.94 and 34.05 RCW. 05-10-088, § 16-662-120, filed 5/4/05, effective 6/4/05.]

WAC 16-662-125 When does WSDA take enforcement action when conducting price verification inspections under *NIST Handbook 130*? WSDA uses *NIST Handbook 130*, Examination Procedure For Price Verification, Paragraph 11.2., Model Enforcement Levels. Overcharges will be used to determine price accuracy for enforcement actions under chapter 19.94 RCW. WSDA may issue a civil penalty after failure of the third price accuracy inspection.

[Statutory Authority: Chapters 19.94 and 34.05 RCW. 05-10-088, § 16-662-125, filed 5/4/05, effective 6/4/05.]

Chapter 16-730 WAC

ASPARAGUS EQUIPMENT LEASE PROGRAM

WAC

16-730-005	What is the purpose of the asparagus equipment lease program?
16-730-007	How does the department ensure that program participants comply with the program's purpose?
16-730-010	What definitions are important to this chapter?
16-730-015	How will the asparagus equipment leasing program be administered?
16-730-020	Who is eligible to participate in the asparagus equipment leasing program?
16-730-025	How does an eligible asparagus handler/packer apply to the equipment leasing program?
16-730-030	When will an applicant know if they have been approved to participate in the equipment leasing program?
16-730-035	If an application is denied, can the applicant request a review of the director's decision?
16-730-040	If an applicant's initial application is disapproved, can the applicant reapply to the equipment leasing program?
16-730-045	What is the process the program will follow to distribute equipment leasing money to approved applicants?
16-730-050	How will the program's equipment leasing money be allocated in 2004?
16-730-055	For the initial leasing program, what are the base distribution amounts for each category of handler/packers?
16-730-060	What requirements apply to equipment leasing program lease agreements?
16-730-062	What happens if an approved handler/packer defaults on a lease?
16-730-065	How long will the initial asparagus equipment leasing program be in operation?
16-730-070	Who develops the depreciation schedules for the program's leased equipment?
16-730-075	Will the equipment used in the asparagus equipment leasing program be offered for sale to the handler/packer who leased it?

WAC 16-730-005 What is the purpose of the asparagus equipment lease program? (1) The Washington state department of agriculture is establishing the asparagus equipment lease program to implement section 308(10), chapter 276, Laws of 2004 (ESHB 2459), which directs the Washington state department of agriculture (WSDA) to purchase agricultural products packing equipment and to negotiate an appropriate agreement with the agricultural industry for the use of that equipment.

(2) The asparagus equipment lease program allows Washington state packers and handlers of Washington asparagus to lease with an opportunity to purchase automated labor saving equipment that will strengthen their post-harvest efforts to efficiently handle or pack fresh, frozen or pickled asparagus.

[Statutory Authority: Chapters 15.04 and 34.05 RCW, 2004 c 276. 05-14-049, § 16-730-005, filed 6/28/05, effective 7/29/05.]

WAC 16-730-007 How does the department ensure that program participants comply with the program's purpose? To ensure that program participants are in compliance with the terms of the program and to ensure that the leased equipment is being used only to pack and process fresh, frozen or pickled asparagus, the participating handlers must, during each year of their participation, give the department or its agent a letter:

- (1) Certifying that the leased equipment is being used for the program's intended purpose; and
- (2) Summarizing the cost and labor savings for that year.

[Statutory Authority: Chapters 15.04 and 34.05 RCW, 2004 c 276. 05-14-049, § 16-730-007, filed 6/28/05, effective 7/29/05.]

WAC 16-730-010 What definitions are important to this chapter? "Applicant" means any person who applies to participate in the equipment leasing program and commercially handles 250,000 pounds or more of asparagus in the calendar year that they apply.

"Approved handler/packer" means any asparagus handler and/or packer who has submitted an equipment leasing program application to the department and has been approved by the department to participate in the program.

"Automation" means the technique and equipment used to bring about automatic operation and control of a process.

"Department" means the Washington state department of agriculture.

"Director" means the director of the Washington state department of agriculture or the director's designee.

"Handler/packer" means a person who sells, arranges for sale, represents, processes, distributes or packages fresh, frozen or pickled asparagus.

"Facility" means any place where fresh asparagus is prepared, handled and packaged as fresh, frozen, or pickled for sale.

"Labor saving" means actions, activities or processes designed to decrease the amount of human labor needed to prepare, handle or package fresh, frozen or pickled asparagus.

"Leasing" means to obtain the use of asparagus handling or packing equipment through the asparagus equipment leasing program.

"Packing equipment" means equipment associated with the activities of the post-harvest handler/packer of fresh, frozen or pickled asparagus.

"Person" means an individual, firm, partnership, corporation, or association engaged in handling and/or packing fresh, frozen or pickled Washington state asparagus.

"Program administrator" means the director of the Washington state department of agriculture or the director's designee.

"Review committee" means a group of five to seven people representing the department and the Washington asparagus commission staff and members and one at large agricultural representative who is neither directly affiliated with the asparagus industry nor any of the equipment leasing program applicants. The purpose of the committee is to review equipment leasing program applications.

[Statutory Authority: Chapters 15.04 and 34.05 RCW, 2004 c 276. 05-14-049, § 16-730-010, filed 6/28/05, effective 7/29/05.]

WAC 16-730-015 How will the asparagus equipment leasing program be administered? The director or the director's designee will administer the asparagus equipment leasing program according to the rules of this chapter. If necessary, the program administrator, following the rule-making procedures in chapter 34.05 RCW (Administrative Procedure Act), may develop and implement additional rules or guidelines to ensure that this program is successful in achieving its purpose.

[Statutory Authority: Chapters 15.04 and 34.05 RCW, 2004 c 276. 05-14-049, § 16-730-015, filed 6/28/05, effective 7/29/05.]

WAC 16-730-020 Who is eligible to participate in the asparagus equipment leasing program? To be eligible to participate in the asparagus equipment leasing program, a post-harvest asparagus handler must:

- (1)(a) Pack a minimum of 250,000 pounds of fresh, frozen or pickled asparagus in Washington in the calendar year in which they apply; and
- (b) Provide documentation verifying the 250,000 pounds. Verification can include asparagus commission assessments or other industry accepted documentation.

- (2) Comply with all applicable federal, state, and local laws and rules related to doing business in Washington and handling food products.

[Statutory Authority: Chapters 15.04 and 34.05 RCW, 2004 c 276. 05-14-049, § 16-730-020, filed 6/28/05, effective 7/29/05.]

WAC 16-730-025 How does an eligible asparagus handler/packer apply to the equipment leasing program?

- (1) Eligible handler/packers can obtain an equipment leasing program application by contacting:

Asparagus Leasing Program
Washington State Department of Agriculture
1111 Washington St. S.E., 2nd Floor
P.O. Box 42560
Olympia, WA 98504-2560

- (2) Eligible applicants must complete the program application and provide the department with the following information:

- (a) Verification consistent with normal and usual leasing agreements that their business is a going concern;
- (b) Verification that they have the ability to adequately insure any equipment they may lease;
- (c) A statement declaring their eligibility and intent to participate in the program;
- (d) Documentation of their ability to provide the necessary upkeep and maintenance of any equipment they may lease;

(e) A description of the equipment to be leased and its cost;

(f) A description of how the leased equipment will automate their post-harvest operation and how it will reduce post-harvest labor costs; and

(g) The pounds of asparagus processed for the period of years identified on the application and documentation verifying the pounds processed.

(3) The completed application and the related information (subsection (2) of this section) must be submitted to:

Asparagus Leasing Program
Washington State Department of Agriculture
1111 Washington St. S.E., 2nd Floor
P.O. Box 42560
Olympia, WA 98504-2560

[Statutory Authority: Chapters 15.04 and 34.05 RCW, 2004 c 276. 05-14-049, § 16-730-025, filed 6/28/05, effective 7/29/05.]

WAC 16-730-030 When will an applicant know if they have been approved to participate in the equipment leasing program? (1) The department, in consultation with the Washington asparagus commission, the Washington asparagus council and the industry at large, will establish application deadlines, application review dates and dates for notifying applicants if they have been accepted to participate in the equipment lease program.

(2) The process for reviewing and approving application is as follows:

(a) The review committee will review all applications and recommend approved applicants to the director.

(b) The director will review the review committee's recommendations.

(c) Once the director approves the recommended applicants, applicants will be notified of the results within five working days of the director's decision.

(3) The department may implement additional application cycles as needed in order to insure that handler/packers may fully participate in the program.

[Statutory Authority: Chapters 15.04 and 34.05 RCW, 2004 c 276. 05-14-049, § 16-730-030, filed 6/28/05, effective 7/29/05.]

WAC 16-730-035 If an application is denied, can the applicant request a review of the director's decision? (1) An applicant whose application has been denied by the director may request a review of the director's decision. The request for review must:

(a) Specify the date of the decision or action being appealed;

(b) Explain as precisely as possible the issue to be resolved by the administrative review;

(c) Include the address of the applicant; and

(d) Be signed by the applicant.

(2) Administrative reviews of denied applications will follow an informal process conducted by the director's designee.

(a) The review will be completed within thirty days after receipt of the review request.

(b) Once the review is completed, the department has ten days to inform the handler of the review decision.

(3) The rights of the department provided in this section are exclusive and are in addition to any other rights and remedies provided by law.

[Statutory Authority: Chapters 15.04 and 34.05 RCW, 2004 c 276. 05-14-049, § 16-730-035, filed 6/28/05, effective 7/29/05.]

WAC 16-730-040 If an applicant's initial application is disapproved, can the applicant reapply to the equipment leasing program? (1) Program applicants whose initial application was denied have ten days from the date they received the director's decision denying their application to reapply.

(2) Applicants must reapply by following the procedures outlined in WAC 16-730-025.

(3) When reapplying, the applicant must request different equipment and/or a different mix of equipment from that listed on their original application.

[Statutory Authority: Chapters 15.04 and 34.05 RCW, 2004 c 276. 05-14-049, § 16-730-040, filed 6/28/05, effective 7/29/05.]

WAC 16-730-045 What is the process the program will follow to distribute equipment leasing money to approved applicants? The program's equipment leasing money will be distributed indirectly to approved applicants as follows:

(1) The department, in consultation with the Washington asparagus commission, the Washington asparagus council and the asparagus industry at large, will determine the amount of equipment leasing money allocated to each approved applicant and then distribute this money to a department approved equipment leasing company.

(2) The approved leasing company will then purchase the equipment and subsequently lease it to an approved applicant.

[Statutory Authority: Chapters 15.04 and 34.05 RCW, 2004 c 276. 05-14-049, § 16-730-045, filed 6/28/05, effective 7/29/05.]

WAC 16-730-050 How will the program's equipment leasing money be allocated in 2004? (1) The initial allocation of equipment leasing money for 2004 will be distributed based upon documented annual average pounds of asparagus an approved handler/packer reported from 2001 through 2004.

Note: If additional application cycles are needed to administer current and future equipment lease allocations and distributions, the department may adjust the initial four-year annual average production period (2001-2004).

(2)(a) Unless the department, in consultation with the Washington asparagus commission, the Washington asparagus council and the asparagus industry at large, determines that the allocation formula be changed, all approved applicants will receive either a base amount of at least \$75,000 for their initial 2004-program allocation or an amount adjusted to reflect an appropriate base for future program offerings.

(b) If the department does change the allocation formula, it will notify the Washington state asparagus industry and, specifically, Washington state asparagus handler/packers.

(3) The department has developed the following categories to help allocate the equipment lease program's initial 2004 offering:

Handler/Packer Categories*	Pounds of Asparagus Handled Annually
Small	Less than 1,000,000 pounds
Medium	1,000,000 to 2,000,000 pounds
Large	2,000,001 to 5,000,000 pounds
*Note: These categories could change. If they do, the department will notify asparagus handler/packers and the industry.	

[Statutory Authority: Chapters 15.04 and 34.05 RCW, 2004 c 276. 05-14-049, § 16-730-050, filed 6/28/05, effective 7/29/05.]

WAC 16-730-055 For the initial leasing program, what are the base distribution amounts for each category of handler/packers?

Note: The department will always work with the review committee to assure that the distributions to approved applicants are fair and equitable and based on the pounds processed formula.

(1) The final handler/packer allocation for 2004 is illustrated in the following table:

Handler/Packer Size	Dollar Allocation per Handler/Packer
Small	\$87,000.00
Medium	\$110,500.00
Large	\$154,500.00

(2) Future distributions will be determined by the:

(a) Amount of program funds available after all administrative and contract-leasing costs are subtracted from the total program allocation received from the legislature; and

(b) Number of participants in the program; and

(c) Department consultations with the Washington asparagus commission, the Washington asparagus council and the asparagus industry at large.

[Statutory Authority: Chapters 15.04 and 34.05 RCW, 2004 c 276. 05-14-049, § 16-730-055, filed 6/28/05, effective 7/29/05.]

WAC 16-730-060 What requirements apply to equipment leasing program lease agreements? (1) The department will follow office of financial management (OFM) procurement guidelines when selecting a leasing company to act as its agent to purchase and manage all equipment leasing arrangements for all approved handler/packers.

(2) All approved handler/packers will complete a lease agreement with the department approved leasing firm.

(3) All equipment lease agreements:

(a) Must be exclusive to the approved handler/packers for the term of the contract with the leasing company; and

(b) Are not transferable without the written approval of the department.

(4) Lease agreements cannot be paid off before the leasing company's contract termination date.

(5) In addition to the leasing requirements contained in this chapter, the department, in its contract with the leasing company, will include other lease requirements that approved handler/packers must follow.

[2006 WAC Supp—page 86]

[Statutory Authority: Chapters 15.04 and 34.05 RCW, 2004 c 276. 05-14-049, § 16-730-060, filed 6/28/05, effective 7/29/05.]

WAC 16-730-062 What happens if an approved handler/packer defaults on a lease? (1) If an approved handler/packer defaults on a lease agreement, the department retains ownership of the equipment and will make the equipment available to other asparagus handlers through a selection process determined by the department in consultation with the Washington asparagus commission, the Washington asparagus council and asparagus industry representatives.

(2) The selection process used by the department to redistribute defaulted lease equipment to approved handler/packers must comply with any applicable state and federal laws and regulations.

[Statutory Authority: Chapters 15.04 and 34.05 RCW, 2004 c 276. 05-14-049, § 16-730-062, filed 6/28/05, effective 7/29/05.]

WAC 16-730-065 How long will the initial asparagus equipment leasing program be in operation? (1) How long the initial equipment leasing program will be in operation will be determined by:

(a) An office of financial management (OFM) approved depreciation schedule for each type of equipment that will be available for leasing; and

(b) The period of time needed to:

(i) Surplus and transfer equipment; and

(ii) Complete program closeout activities.

(2) For any distributions following the initial one, the department may modify the program length, depreciation schedules, contract requirements or leasing agreements.

[Statutory Authority: Chapters 15.04 and 34.05 RCW, 2004 c 276. 05-14-049, § 16-730-065, filed 6/28/05, effective 7/29/05.]

WAC 16-730-070 Who develops the depreciation schedules for the program's leased equipment? The department, with final approval from OFM, will develop depreciation schedules for the program's leased equipment. These schedules will be based upon the characteristic economic useful lives of asparagus processing and handling equipment used by the industry.

[Statutory Authority: Chapters 15.04 and 34.05 RCW, 2004 c 276. 05-14-049, § 16-730-070, filed 6/28/05, effective 7/29/05.]

WAC 16-730-075 Will the equipment used in the asparagus equipment leasing program be offered for sale to the handler/packer who leased it? (1) At the end of its depreciation period, the equipment leased to a handler/packer will be declared "surplus" and offered for sale to the handler/packer or their designee.

(2) If a handler/packer wants to sell their leased equipment to a designee, they must complete a designee form and have the form approved by the department.

[Statutory Authority: Chapters 15.04 and 34.05 RCW, 2004 c 276. 05-14-049, § 16-730-075, filed 6/28/05, effective 7/29/05.]

Chapter 16-750 WAC

STATE NOXIOUS WEED LIST AND SCHEDULE OF MONETARY PENALTIES

WAC

16-750-005 State noxious weed list—Class A noxious weeds.
 16-750-011 State noxious weed list—Class B noxious weeds.

WAC 16-750-005 State noxious weed list—Class A noxious weeds.

Common Name	Scientific Name
bean-caper, Syrian	<i>Zygophyllum fabago</i>
blueweed, Texas	<i>Helianthus ciliaris</i>
broom, Spanish	<i>Spartium junceum</i>
buffalobur	<i>Solanum rostratum</i>
clary, meadow	<i>Salvia pratensis</i>
cordgrass, dense flower	<i>Spartina densiflora</i>
cordgrass, salt meadow	<i>Spartina patens</i>
crupina, common	<i>Crupina vulgaris</i>
flax, spurge	<i>Thymelaea passerina</i>
four o'clock, wild	<i>Mirabilis nyctaginea</i>
goatsrue	<i>Galega officinalis</i>
hawkweed, yellow devil	<i>Hieracium floribundum</i>
hogweed, giant	<i>Heracleum mantegazzianum</i>
hydrilla	<i>Hydrilla verticillata</i>
johnsongrass	<i>Sorghum halepense</i>
knapweed, bighead	<i>Centaurea macrocephala</i>
knapweed, Vochin	<i>Centaurea nigrescens</i>
kudzu	<i>Pueraria montana var. lobata</i>
lawnweed	<i>Soliva sessilis</i>
mustard, garlic	<i>Alliaria petiolata</i>
nightshade, silverleaf	<i>Solanum elaeagnifolium</i>
primrose-willow, floating	<i>Ludwigia peploides</i>
sage, clary	<i>Salvia sclarea</i>
sage, Mediterranean	<i>Salvia aethiopis</i>
spurge, eggleaf	<i>Euphorbia oblongata</i>
starthistle, purple	<i>Centaurea calcitrapa</i>
sweetgrass, reed	<i>Glyceria maxima</i>
thistle, Italian	<i>Carduus pycnocephalus</i>
thistle, milk	<i>Silybum marianum</i>
thistle, slenderflower	<i>Carduus tenuiflorus</i>
velvetleaf	<i>Abutilon theophrasti</i>
woad, dyers	<i>Isatis tinctoria</i>

[Statutory Authority: Chapters 17.10 and 34.05 RCW. 05-24-026, § 16-750-005, filed 11/30/05, effective 12/31/05; 03-04-001, § 16-750-005, filed 1/22/03, effective 2/22/03. Statutory Authority: Chapter 17.10 RCW. 99-24-029, § 16-750-005, filed 11/23/99, effective 1/3/00; 98-24-026, § 16-750-005, filed 11/23/98, effective 1/2/99; 97-24-051, § 16-750-005, filed 11/26/97, effective 1/2/98. Statutory Authority: RCW 17.10.080.96-06-030, § 16-750-005, filed 2/29/96, effective 3/31/96. Statutory Authority: Chapter 17.10 RCW. 93-01-004, § 16-750-005, filed 12/2/92, effective 1/2/93; 91-24-072, § 16-750-005, filed 12/2/91, effective 1/2/92; 91-01-016, § 16-750-005, filed 12/7/90, effective 1/7/91; 90-01-004, § 16-750-005, filed 12/7/89, effective 1/7/90; 88-24-002 (Order 26, Resolution No. 26), § 16-750-005, filed 11/29/88. Statutory Authority: RCW 17.10.080.88-07-016 (Order 22, Resolution No. 22), § 16-750-005, filed 3/7/88.]

WAC 16-750-011 State noxious weed list—Class B noxious weeds.

Name	Will be a "Class B designate" in all lands lying within:
(1) alyssum, hoary <i>Bertiera incana</i>	(a) regions 1, 2, 5, 6, 8, 9, 10 (b) region 3, except Okanogan County

Name	Will be a "Class B designate" in all lands lying within:
(c)	Okanogan County, of region 3, except Ranges 29 through 31 East of Townships 37 through 40 North
(d)	Adams and Whitman counties of region 7.
(a)	regions 1, 3, 4, 6, 7, 8, 9, 10
(b)	region 2 except Lake Roesiger, Lake Serene, Lake Loma and Echo Lake in Snohomish County
(c)	region 5 except Mason Lake in Mason County.
(a)	regions 1, 2, 3, 5, 6, 8, 9, 10
(b)	Ferry, Stevens, Pend Oreille counties of region 4
(c)	Adams County of region 7.
(a)	regions 1, 2, 3, 4, 5, 6, 8, 9, 10
(b)	region 7 except for an area starting at the Stevens County line on SR 291 south to the SR 291 bridge over the Little Spokane River, thence upstream along the Little Spokane River to the first Rutter Parkway Bridge; thence south along the Rutter Parkway to the intersection of Rutter Parkway and Indian Trail Road; thence southerly along Indian Trail Road to a point three miles south (on section line between sections 22 and 27, T-26N, R-42E); thence due west to a point intersecting the line between Ranges 41 and 42; thence north along this line to a point 1/4 mile south of Charles Road; thence northwesterly parallel to Charles Road to a point 1/4 miles south of the intersection of Charles Road and West Shore Road; thence northerly along West Shore Road to the Spokane River (Long Lake); thence southeasterly along the Spokane River to the point of beginning.
(a)	regions 3, 4, 6, 7, 9, 10.
(a)	regions 1, 2, 3, 4, 5, 6, 8, 9
(b)	region 7 except Whitman County
(c)	Franklin County of region 10.
(a)	regions 1, 2, 3, 5, 6, 8, 9, 10
(b)	region 4 except Stevens and Spokane counties
(c)	Lincoln, Adams, and Whitman counties of region 7.
(a)	regions 1, 2, 3, 4, 5, 6, 8, 9
(b)	Lincoln and Adams counties
(c)	Whitman County except ranges 43 through 46 East of Townships 16 through 20 North.
(a)	regions 1, 2, 3, 4, 5, 7, 8, 9
(b)	region 6 except those portions of Sections 23, 24, 25, and 29 through 36, T16N, R27E, W.M. lying outside Intercounty Weed District No. 52 and except Sections 1 through 12, T15N, R27E, W.M. in Grant County

		Will be a "Class B designate" in all lands lying within:			Will be a "Class B designate" in all lands lying within:
	Name		Name		
		and except the area west of Highway 17 and north of Highway 26 in Adams County	(17)	elodea, Brazilian <i>Egeria densa</i>	(a) regions 3, 4, 6, 7, 9, 10 (b) Lewis County of region 8 (c) Clallam County of region 1 (d) King County of region 5, except lakes Washington, Sammamish, Union and Fenwick.
		(c) Franklin, Columbia, Garfield, and Asotin counties of region 10			
		(d) an area beginning at the Washington—Oregon border at the southwest portion of section 5, R32E, T6N, then north to the northwest corner of section 3, R32E, T7N, then east to the northeast corner of section 3, R36E, T7N, then south to southeast portion of section 15, R36E, T6N, at the Washington—Oregon border, then west along the Washington—Oregon border to the point of beginning.	(18)	fanwort <i>Cabomba caroliniana</i>	(a) regions 1, 2, 3, 4, 5, 6, 7, 9, 10 (b) region 8 except T8N, R3W of Cowlitz County.
		(a) regions 3, 7 (except where intentionally cultivated)	(19)	fieldcress, Austrian <i>Rorippa austriaca</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9 (b) regions 7 and 10 except within the Palouse River Canyon from Big Palouse Falls to the Snake River.
(10)	carrot, wild <i>Daucus carota</i>	(b) Spokane and Ferry counties of region 4 (except where intentionally cultivated)	(20)	floating heart, yellow <i>Nymphoides peltata</i>	(a) regions 1, 2, 3, 5, 6, 7, 8, 9, 10 (b) region 4 except the Spokane River between Long Lake Dam and Nine Mile Dam.
		(c) region 6, except Yakima County (except where intentionally cultivated)	(21)	gorse <i>Ulex europaeus</i>	(a) regions 1, 3, 4, 6, 7, 9, 10 (b) Skagit, Island, and Whatcom counties of region 2 (c) Thurston, Kitsap, Pierce, and King counties of region 5 (d) Wahkiakum, Clark, Skamania, Cowlitz, and Lewis counties of region 8.
		(d) region 9, except Yakima County (except where intentionally cultivated)	(22)	hawkweed, mouseear <i>Hieracium pilosella</i>	(a) regions 1, 2, 3, 4, 6, 7, 8, 9, 10 (b) region 5 except Thurston County (c) Thurston County lying within T17N, R1W, S31; T16N, R2W, S30 W1/2; T16N, R3W, S25, SE1/4; T16N, R3W, S36, N1/2; T16N, R2W, S31, NW1/4.
		(e) region 10, except Walla Walla County (except where intentionally cultivated.			
(11)	catsear, common <i>Hypochaeris radicata</i>	(a) regions 3, 4, 6, 7, 10	(23)	hawkweed, orange <i>Hieracium aurantiacum</i>	(a) regions 3, 6, 9, 10 (b) Clallam County of region 1 (c) Skagit County of region 2 (d) Ferry County of region 4 (e) Thurston and King counties of region 5 (f) Lincoln and Adams counties of region 7 (g) Lewis County of region 8.
(12)	chervil, wild <i>Anthriscus sylvestris</i>	(b) region 9 except Klickitat County.			
		(a) regions 1, 3, 4, 6, 7, 9, 10	(24)	hawkweed, polar <i>Hieracium atratum</i>	(a) regions 1, 2, 3, 4, 6, 7, 8, 9, 10 (b) region 5 outside the boundaries of Mt. Rainier National Park.
		(b) region 5 except those portions of Thurston County within T15, 16, 17N, R2, 3, 4W	(25)	hawkweed, queen-devil <i>Hieracium glomeratum</i>	(a) regions 1, 2, 3, 5, 6, 7, 8, 9, 10 (b) Ferry County of region 4.
		(c) region 2 except Guemes Island in Skagit County			
		(d) region 8 except Clark County.	(26)	hawkweed, smooth <i>Hieracium laevigatum</i>	(a) regions 1, 3, 4, 5, 6, 7, 8, 9, 10 (b) San Juan, Island, and Skagit counties of region 2.
(13)	cinquefoil, sulfur <i>Potentilla recta</i>	(a) regions 1, 3, 8, 10	(27)	hawkweed, yellow <i>Hieracium caespitosum</i>	(a) regions 1, 2, 3, 5, 6, 7, 8, 10 (b) region 4 except Stevens and Pend Oreille counties (c) region 9 except sections 32, 33 and 34 of T6N, R12E, and sections 4, 5, 6, and 7 of T5N, R12E, and section 12 of T5N, R11E, of Klickitat County.
		(b) region 2 except Skagit County			
		(c) region 4 except Stevens, Ferry, and Pend Oreille counties	(28)	hedgearsley <i>Torilis arvensis</i>	(a) regions 1, 2, 3, 4, 5, 6, 7, 8, 10 (b) Yakima, Benton, Franklin counties (c) Klickitat County except those lands lying within T4N, R10E, R11E, R12E, R13E, R14E; T3N, R10E, R11E, R12E, R13E; T2N, R12E, R13E.
		(d) region 5 except Thurston and Pierce counties			
		(e) region 6 except Yakima County			
		(f) region 7 except Spokane County			
		(g) region 8 except Lewis County			
		(h) region 9 except Klickitat County.			
(14)	cordgrass, smooth <i>Spartina alterniflora</i>	(a) regions 1, 3, 4, 5, 6, 7, 9, 10			
		(b) region 2 except Padilla Bay of Skagit County			
		(c) region 8 except bays and estuaries of Pacific County.			
(15)	cordgrass, common <i>Spartina anglica</i>	(a) regions 1, 3, 4, 5, 6, 7, 8, 9, 10			
		(b) region 2 except bays and estuaries of Skagit and Island counties and except bays and estuaries north of Everett in Snohomish County.			
(16)	daisy, oxeye <i>Leucanthemum vulgare</i>	(a) regions 7, 10			
		(b) region 9 except those areas lying within Klickitat and Yakima counties west of Range 13 East			
		(c) region 6 except those areas lying within Yakima and Kittitas counties west of Range 13 E.			

Will be a "Class B designate" in all lands lying within:			Will be a "Class B designate" in all lands lying within:		
	Name			Name	
(29)	helmet, policeman's <i>Impatiens glandulifera</i>	(a) regions 1, 3, 4, 6, 7, 8, 9, 10 (b) region 2 except Whatcom County (c) region 5 except Pierce and Thurston counties.	(36)	knapweed, meadow <i>Centaurea jacea</i> x <i>nigra</i>	(a) regions 1, 2, 3, 4, 7, 9, 10 (b) region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties
(30)	herb-Robert <i>Geranium robertianum</i>	(a) regions 3, 4, 6, 7, 9, 10			(c) region 6 except Kittitas County
(31)	houndstongue <i>Cynoglossum officinale</i>	(a) Kittitas County of region 6 (b) Douglas County of regions 3 and 6.			(d) region 8 except Clark County.
(32)	indigobush <i>Amorpha fruticosa</i>	(a) regions 1, 2, 3, 4, 5, 6 (b) regions 7 and 10 except within 200 feet of the Snake River from Central Ferry downstream (c) regions 8, 9, and 10 except within 200 feet of the Columbia River.	(37)	knapweed, Russian <i>Acroptilon repens</i>	(a) regions 1, 2, 5, 7, 8 (b) region 4 except that area lying within the boundaries of the Colville Indian Reservation within Ferry County (c) Adams County of region 6 except for the area west of Highway 17 and North of Highway 26 (d) Intercounty Weed District No. 52 (e) region 10 except Franklin County.
(33)	knapweed, black <i>Centaurea nigra</i>	(a) regions 1, 2, 3, 4, 7, 9, 10 (b) region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties (c) region 6 except Kittitas County (d) region 8 except Clark County.	(38)	knapweed, spotted <i>Centaurea biebersteinii</i>	(a) regions 1, 2, 3, 5, 6, 9 (b) Ferry County of region 4 (c) Adams and Whitman counties of region 7 (d) region 8, except that portion of Lewis County below the ordinary high watermark of the Tilton River from Hwy. 508 to Lake Mayfield (e) region 10 except Garfield County.
(34)	knapweed, brown <i>Centaurea jacea</i>	(a) regions 1, 2, 3, 4, 7, 9, 10 (b) region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties (c) region 6 except Kittitas County (d) region 8 except Clark County.	(39)	knotweed, Bohemian <i>Polygonum bohemicum</i>	(a) Kittitas County of region 6 (b) Chelan and Douglas counties of regions 3 and 6 (c) Pend Oreille County of region 4.
(35)	knapweed, diffuse <i>Centaurea diffusa</i>	(a) regions 1, 2, 5, 8 (b) Grant County lying in Townships 13 through 16 North, Ranges 25 through 27 East; Townships 17 and 18 N., Ranges 25 through 30 East; Townships 19 and 20 North, Ranges 29 and 30 East; T21N, R23E, Sections 1 through 30; T21N, R26E., Sections 5, 6, 7, 8, 17, and 18; East 1/2 Township 21N, Range 27E.; T21N, Ranges 28 through 30 E; those portions of Townships 22 through 28N, Ranges 28 through 30 E.; those portions of Township 22 through 28N., Ranges 23 through 30E. lying in Grant County; all W.M. (c) Adams County except those areas within T15N, R36E, Section 36; T15N, R37E, Sections 22, 26, 27, 28, 31, 32, 33 and 34; T15N, R37E, western half of Sections 23, 24 and 25; T15N, R38E, Sections 2, 10, 11, 14, 15, 19 and 20; T16N, R38E, Sections 34 and 35; T17N, R37E, Sections 5 and 6 (d) Franklin County of regions 9 and 10.	(40)	knotweed, giant <i>Polygonum sachalinense</i>	(a) Kittitas County of region 6 (b) Pend Oreille County of region 4.
			(41)	knotweed, Himalayan <i>Polygonum polystachyum</i>	(a) Kittitas County of region 6 (b) Pend Oreille County of region 4 (c) Lewis County of region 8.
			(42)	knotweed, Japanese <i>Polygonum cuspidatum</i>	(a) Kittitas County of region 6 (b) Chelan and Douglas counties of regions 3 and 6 (c) Pend Oreille County of region 4.
			(43)	kochia <i>Kochia scoparia</i>	(a) Regions 1, 2, 5, 8 (b) Pend Oreille County of region 4 (c) Kittitas County of region 6.
			(44)	lepyrodiclis <i>Lepyrödiclis holosteoides</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9, 10 (b) region 7 except an area within Whitman County east of the Pullman—Wawawai Road from Wawawai to Pullman and south of State Highway 270 from Pullman to Moscow, Idaho.
			(45)	loosestrife, garden <i>Lysimachia vulgaris</i>	(a) regions 1, 2, 3, 4, 6, 7, 8, 9, 10 (b) region 5 except King County (c) Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line.

		Will be a "Class B designate" in all lands lying within:				Will be a "Class B designate" in all lands lying within:	
	Name				Name		
(46)	loosestrife, purple <i>Lythrum salicaria</i>	(a)	regions 1, 4, 7, 8	(48)	nutsedge, yellow <i>Cyperus esculentus</i>	(a)	regions 1, 2, 3, 4, 5, 7, 8
		(b)	region 2 except Snohomish County			(b)	region 6 except those areas lying between State Highway 26 and State Highway 28, and westerly of Dodson Road in Grant County, and except S 1/2, Sec. 2, T20N, R25E., W.M.
		(c)	region 3 except within 100 feet of the ordinary highwater mark of the Okanogan River from the Canadian border south to River-side			(c)	region 9 except:
		(d)	Grays Harbor, Mason, Kitsap, and Thurston counties of region 5			(i)	except those areas lying within the following boundary description within Yakima County: Beginning at the intersection of Highway 12 and Parker Heights Road and continuing easterly to Konnowac Pass Road follow said road north to the intersection of Konnowac Pass Road and Nightingale Road. The northern boundary shall be the Roza Canal, continuing from the established point at Nightingale Road. The boundaries will follow the Roza Canal easterly to the County Line Road. The east boundaries will be the Yakima/Benton County Line from a point beginning at the County Line and Highway 22 (near Byron) continuing westerly along Highway 22 (to near the city of Mabton) to the intersection of Highway 22 and the Reservation Boundary (Division Road) and continuing north to the Yakima River. Then it will follow the river northwest to the Wapato-Donald Road continuing north along said road to Highway 12 then Highway 12 to Parker Heights Road.
		(e)	Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line			(ii)	an area lying southerly of State Route 14 and within T2N, Ranges 13 and 14 E of Klickitat County
		(f)	Pierce County, except those areas lying within T2D, 21, 22N, R1W and R1E, all sections			(d)	region 10 except Walla Walla County.
		(g)	region 6 except that portion of Grant County lying northerly of the Frenchmen Hills-O'Sullivan Dam Road, southerly of Highway Interstate 90, easterly of the section line of the location of County Road J SW/NW if constructed and westerly of the section line of the location of County Road H SE/NE if constructed	(49)	ox-tongue, hawkweed <i>Picris hieracioides</i>	(a)	regions 1, 2, 3, 4, 5, 6, 7, 9, 10
		(h)	region 9 except Benton County			(b)	region 8 except Skamania County.
		(i)	region 10 except Walla Walla County	(50)	parrotfeather <i>Myriophyllum aquaticum</i>	(a)	regions 1, 2, 3, 4, 5, 6, 7, 9, 10
		(j)	Intercounty Weed Districts No. 51 and No. 52.			(b)	region 8 except Clark, Cowlitz, and Wahkiakum counties.
(47)	loosestrife, wand <i>Lythrum virgatum</i>	(a)	regions 1, 4, 7, 8	(51)	pepperweed, perennial <i>Lepidium latifolium</i>	(a)	regions 1, 2, 3, 4, 5, 7, 8, 10
		(b)	region 2 except Snohomish County			(b)	Intercounty Weed Districts No. 51 and 52
		(c)	region 3 except within 100 feet of the ordinary highwater mark of the Okanogan River from the Canadian border south to River-side			(c)	Kittitas County of region 6
		(d)	region 5 except King County			(d)	Adams County of region 6 except for the area west of Highway 17 and north of Highway 26.
		(e)	Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line	(52)	primrose, water <i>Ludwigia hexapetala</i>	(a)	regions 1, 2, 3, 4, 5, 6, 7, 9, 10
		(f)	region 6 except that portion of Grant County lying northerly of the Frenchmen Hills-O'Sullivan Dam Road, southerly of Highway Interstate 90, easterly of the section line of the location of County Road J SW/NW if constructed and westerly of the section line of the location of County Road H SE/NE if constructed			(b)	region 8 except T8N, R3W, S14 of Cowlitz County.
		(g)	region 9 except Benton County				
		(h)	region 10 except Walla Walla County				
		(i)	Intercounty Weed Districts No. 51 and No. 52.				

Will be a "Class B designate" in all lands lying within:			Will be a "Class B designate" in all lands lying within:		
Name			Name		
(53) puncturevine <i>Tribulus terrestris</i>	(a)	Skagit County of region 2	(e)		Stevens County north of Township 33 North of region 4
	(b)	Kittitas County of region 6	(f)		Ferry and Pend Oreille counties of region 4
	(c)	Adams County	(g)		Asotin County of region 10
(54) ragwort, tansy <i>Senecio jacobaea</i>	(d)	Clallam County of region 1.	(h)		Garfield County south of Highway 12
	(a)	regions 3, 4, 6, 7, 9, 10	(i)		Columbia County from the Walla Walla County line on Highway 12, all areas south of Turner Road; at Turner Road to the Garfield county line, all areas south and east of Turner Road
	(b)	region 5, that portion of Pierce County lying south or east of a boundary beginning at the White River and State Highway 410, then west along State Highway 410 to intersection with State Highway 162 (Orting) to intersection with Orville Road, then south along Orville Road to intersection with Kapowsin Highway (304th Street East), then west following Kapowsin Highway to intersection with State Route 7, then south along State Route 7 to intersection with State Route 702, then west along State Route 702 to intersection with State Route 507, then southwest along State Route 507 to intersection with the Nisqually River.	(j)		Whitman County lying in Ranges 43 through 46 East of Townships 15 through 20 North; T14N, Ranges 44 through 46 East; and T13N, Ranges 45 and 46 East.
			(58) sowthistle, perennial <i>Sonchus arvensis</i> ssp. <i>arvensis</i>	(a)	regions 1, 2, 3, 4, 7, 8, 9, 10
				(b)	Adams County of region 6
(55) Saltcedar <i>Tamarix ramosissima</i>	(a)	regions 1, 2, 3, 4, 5, 7, 8, unless intentionally established prior to 2004	(c)		region 5 except for sections 28, 29, 30, 31, 32, and 33 in T19N, R1E of Thurston and Pierce counties.
	(b)	region 6 except Grant County, unless intentionally established prior to 2004	(59) spurge, leafy <i>Euphorbia esula</i>	(a)	regions 1, 2, 3, 4, 5, 6, 8, 9, 10
	(c)	region 9 except Benton and Franklin counties, unless intentionally established prior to 2004		(b)	region 7 except as follows:
	(d)	region 10 except Franklin County, unless intentionally established prior to 2004.		(i)	T27N, R37E, Sections 34, 35, 36; T27N, R38E, Sections 31, 32, 33; T26N, R37E, Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 16, 26; T26N, R38E, Sections 5, 6, 7, 8 of Lincoln County
(56) sandbur, long-spine <i>Cenchrus longispinus</i>	(a)	regions 1, 2, 3, 4, 5, 7, 8	(60) spurge, myrtle <i>Euphorbia myrsinites</i> L	(a)	T24N, R43E, Section 12, Qtr. Section 3, Parcel No. 9068 of Spokane County.
	(b)	Adams County of region 6 except for that area lying within Intercounty Weed District No. 52	(61) starthistle, yellow <i>Centaurea solstitialis</i>	(b)	Pend Oreille County of region 4.
	(c)	Intercounty Weed District No. 51		(a)	regions 1, 2, 3, 5, 6, 8
	(d)	Kittitas County of region 6.		(b)	region 4 except those areas within Stevens County bounded by a line beginning at the intersection of State Highway 20 and State Highway 25, then north to intersection with Pinkston Creek Road, then east along Pinkston Creek Road to intersection with Highland Loop Road, then south along Highland Loop Road to intersection with State Highway 20, then west along State Highway 20 to intersection with State Highway 25
(57) skeletonweed, rush <i>Chondrilla juncea</i>	(a)	regions 1, 2, 3, 5, 8, 9		(c)	region 7 except those areas within Whitman County lying south of State Highway 26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border
	(b)	Franklin County except T13N, R36E; and T14N, R36E		(d)	Franklin County
	(c)	Adams County except those areas lying east of a line running north from Franklin County along the western boundary of Range 36 East to State Highway 26 then north on Sage Road until it intersects Lee Road, then due north until intersection with Providence Road, then east to State Highway 261, then north along State Highway 261 to its intersection with Interstate 90, henceforth on a due north line to intersection with Bauman Road, then north along Bauman Road to its terminus, then due north to the Lincoln County line.		(e)	region 9 except Klickitat County
	(d)	region 6 except that portion lying within Grant County that is southerly of State Highway 28, northerly of Interstate Highway 90 and easterly of Grant County Road I Northwest			

Name		Will be a "Class B designate" in all lands lying within:	
		(f)	in all lands lying within Asotin County, Region 10, except as follows: T11N, R44E, Sections 25, 26, 27, 28, 29, 31, 32, 33, 34, and 35; T11N, R45E, Sections 21, 22, 23, and 25; T11N, R36E, Sections 19, 20, 21, 28, 29, 30, 31, 32, and 33; T10N, R44E, Sections 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 15, and 16; T10N, R45E, Sections 23 and 24; T10N, R46E, Sections 7, 8, 17, 18, 19, 20, 21, 22, 27, 34, and 35; T9N, R46E, Sections 1, 2, 12, 13, 14, 23, 24, 25, 26, 35, and 36; T9N, R47E, Sections 18, 19, 30, and 31; T8N, R46E, Sections 1, 2, 3, 9, 10, 11, 12, 13, 14, 15, 16, 23, and 24; T8N, R47E, Sections 8, 17, 18, 19, 20, 29, 30, 31, and 32.
(62)	Swainsonpea <i>Sphaerophysa salsula</i>	(a)	regions 1, 2, 3, 4, 5, 7, 8
		(b)	Columbia, Garfield, Asotin, and Franklin counties
		(c)	an area beginning at the Washington—Oregon border at the southwest portion of Section 15, R32E, T6N, then north to the northwest corner of Section 3, R32E, T7N, then east to the northeast corner of Section 3, R36E, T7N, then south to the southeast portion of Section 15, R36E, T6N, at the Washington—Oregon border, then west along the Washington—Oregon border to the point of beginning Weed District No. 3 of Grant County
		(d)	Adams County of region 6.
(63)	thistle, musk <i>Carduus nutans</i>	(a)	regions 1, 2, 3, 5, 6, 7, 8, 9, 10
		(b)	Spokane and Pend Oreille counties.
(64)	thistle, plumeless <i>Carduus acanthoides</i>	(a)	regions 1, 2, 3, 5, 6, 7, 8, 9, 10
		(b)	region 4 except those areas within Stevens County lying north of State Highway 20.
(65)	thistle, Scotch <i>Onopordum acanthium</i>	(a)	regions 1, 2, 3, 4, 5, 6, 8, 9
		(b)	region 7 except for those areas within Whitman County lying south of State Highway 26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border
		(c)	Franklin County.
(66)	toadflax, Dalmatian <i>Linaria dalmatica</i> ssp. <i>dalmatica</i>	(a)	regions 1, 2, 5, 8, 10
		(b)	Douglas County of region 3 lying south of T25N and west of R25E
		(c)	Okanogan County lying within T 33, 34, 35N, R19, 20, 21, 22E, except the southwest, southeast, and northeast quarters of the northeast quarter of section 27, T35N, R21E; and the northeast quarter of the southeast quarter of section 27, T35N, R21E
		(d)	Kittitas, Chelan, Douglas, and Adams counties of region 6
		(e)	Intercounty Weed District No. 51

		Will be a "Class B designate" in all lands lying within:	
Name		Name	
		(f)	Weed District No. 3 of Grant County
		(g)	Lincoln and Adams counties
		(h)	The western two miles of Spokane County of region 7
		(i)	region 9 except as follows:
		(i)	those areas lying within Yakima County
		(ii)	those areas lying west of the Klickitat River and within Klickitat County.
(67)	watermilfoil, Eurasian <i>Myriophyllum spicatum</i>	(a)	regions 1, 9, 10
		(b)	region 7 except Spokane County
		(c)	region 8 except within 200 feet of the Columbia River
		(d)	Adams County of region 6
		(e)	in all water bodies of public access, except the Pend Oreille River, in Pend Oreille County of region 4.

[Statutory Authority: Chapters 17.10 and 34.05 RCW. 05-24-026, § 16-750-011, filed 11/30/05, effective 12/31/05; 05-01-012, § 16-750-011, filed 12/2/04, effective 1/2/05. Statutory Authority: Chapter 17.10 RCW. 04-13-014, § 16-750-011, filed 6/4/04, effective 7/5/04. Statutory Authority: Chapters 17.10 and 34.05 RCW. 03-24-012, § 16-750-011, filed 11/20/03, effective 12/21/03; 03-04-001, § 16-750-011, filed 1/22/03, effective 2/22/03. Statutory Authority: Chapter 17.10 RCW. 01-24-035, § 16-750-011, filed 11/28/01, effective 12/29/01; 00-24-017, § 16-750-011, filed 11/28/00, effective 1/2/01; 99-24-029, § 16-750-011, filed 11/23/99, effective 1/3/00; 98-24-026, § 16-750-011, filed 11/23/98, effective 1/2/99; 97-24-051, § 16-750-011, filed 11/26/97, effective 1/2/98; 97-06-108, § 16-750-011, filed 3/5/97, effective 4/5/97. Statutory Authority: RCW 17.10.080. 96-06-030, § 16-750-011, filed 2/29/96, effective 3/31/96. Statutory Authority: Chapter 17.10 RCW. 95-06-002, § 16-750-011, filed 2/16/95, effective 3/19/95; 94-01-076, § 16-750-011, filed 12/10/93, effective 1/10/94; 93-01-004, § 16-750-011, filed 12/2/92, effective 1/2/93; 91-24-072, § 16-750-011, filed 12/2/91, effective 1/2/92; 91-01-016, § 16-750-011, filed 12/7/90, effective 1/7/91; 90-01-004, § 16-750-011, filed 12/7/89, effective 1/7/90; 88-24-002 (Order 26, Resolution No. 26), § 16-750-011, filed 11/29/88; 88-18-001 (Order 24, Resolution No. 24), § 16-750-011, filed 8/25/88. Statutory Authority: RCW 17.10.080. 88-07-016 (Order 22, Resolution No. 22), § 16-750-011, filed 3/7/88.]

Chapter 16-752 WAC

NOXIOUS WEED CONTROL

WAC

16-752-505 Wetland and aquatic weed quarantine—Regulated articles.

WAC 16-752-505 Wetland and aquatic weed quarantine—Regulated articles. All plants and plant parts of the following are regulated articles under this chapter:

Scientific Name	Common Name
<i>Butomus umbellatus</i>	flowering rush
<i>Cabomba caroliniana</i>	fanwort
Scientific Name	Common Name
<i>Crassula helmsii</i>	Australian swamp stonecrop
<i>Egeria densa</i>	Brazilian elodea
<i>Epilobium hirsutum</i>	hairy willow herb
<i>Glossostigma diandrum</i>	mud mat
<i>Glyceria maxima</i>	reed sweetgrass, tall manna grass
<i>Hydrilla verticillata</i>	hydrilla
<i>Hydrocharis morsus-ranae</i>	European frog-bit
<i>Lagarosiphon major</i>	African elodea

<i>Ludwigia hexapetala</i>	water primrose
<i>Lysimachia vulgaris</i>	garden loosestrife
<i>Murdannia keisak</i>	marsh dew flower, Asian spiderwort
<i>Myriophyllum aquaticum</i>	parrotfeather
<i>Myriophyllum spicatum</i>	Eurasian watermilfoil
<i>Najas minor</i>	slender-leaved naiad, brittle naiad
<i>Nymphoides peltata</i>	yellow floating heart
<i>Sagittaria graminea</i>	grass-leaved arrowhead
<i>Sagittaria platyphylla</i>	delta arrowhead
<i>Spartina alterniflora</i>	smooth cordgrass
<i>Spartina anglica</i>	common cordgrass
<i>Spartina densiflora</i>	dense-flowered cordgrass
<i>Spartina patens</i>	salt meadow cordgrass
<i>Trapa natans</i>	water chestnut, bull nut
<i>Trapa bicornus</i>	water caltrap, devil's pod, bat nut
<i>Utricularia inflata</i>	swollen bladderwort

[Statutory Authority: Chapters 17.24 and 34.05 RCW. 05-21-028, § 16-752-505, filed 10/11/05, effective 11/11/05. Statutory Authority: Chapters 17.10, 17.24, and 34.05 RCW. 04-19-004, § 16-752-505, filed 9/2/04, effective 10/3/04. Statutory Authority: Chapters 17.24, 17.10, and 15.13 RCW. 01-01-014, § 16-752-505, filed 12/6/00, effective 1/6/01. Statutory Authority: RCW 17.10.235 and chapter 17.24 RCW. 92-07-024, § 16-752-505, filed 3/10/92, effective 4/10/92.]

Title 51 WAC **COMMUNITY, TRADE, AND** **ECONOMIC** **DEVELOPMENT,** **DEPARTMENT OF** **(BUILDING CODE** **COUNCIL)**

Chapters

51-04	Policies and procedures for consideration of statewide and local amendments to the State Building Code.
51-11	Washington State Energy Code.
51-50	State Building Code adoption and amendment of the 2003 edition of the International Building Code.
51-54	State Building Code adoption and amendment of the 2003 edition of the International Fire Code.

Chapter 51-04 WAC

POLICIES AND PROCEDURES FOR **CONSIDERATION OF STATEWIDE AND LOCAL** **AMENDMENTS TO THE STATE BUILDING CODE**

WAC

51-04-015	Definitions.
51-04-020	Policies for the consideration of proposed statewide amendments.

51-04-030	Policies for consideration of proposed local government residential amendments.
51-04-035	Procedure for submittal of proposed local government residential amendments.
51-04-040	Reconsideration.
51-04-070	Council mailing address.

WAC 51-04-015 Definitions. (1) "Supplements and accumulative supplements" mean the publications between editions of the model codes and standards which include changes to the current edition of the model codes and standards.

(2) "Council" means the Washington state building code council.

(3) "Emergency statewide amendment" means any proposed statewide amendment, the adoption of which is necessary immediately in order to protect life, safety or health of building occupants; preserve the structural integrity of buildings built to the state building code; to correct errors and omissions; or by the direction of the Washington state legislature or federal legislation. Emergency statewide amendments to the state building code must be adopted in accordance with the Administrative Procedure Act, chapter 34.05 RCW.

(4) "Local government amendment" means any amendment to the state building code, as adopted by cities or counties for implementation and enforcement in their respective jurisdictions.

(5) "Local government residential amendment" means any amendment to the state building code, as adopted by cities or counties for implementation and enforcement in their respective jurisdictions, that applies to single and multifamily buildings as defined by RCW 19.27.015.

(6) "Model codes" means the codes developed by the model code organizations and adopted by and referenced in chapter 19.27 RCW.

(7) "Model code organization(s)" means the national code-promulgating organizations that develop the model codes (as defined herein), such as the International Code Council, International Association of Plumbing and Mechanical Officials, and National Fire Protection Association.

(8) "State building code" means the codes adopted by and referenced in chapter 19.27 RCW; the state energy code; and any other codes so designated by the Washington state legislature as adopted and amended by the council.

(9) "Statewide amendment" means any amendment to the building code, initiated through council action or by petition to the council from any agency, city or county, or interested individual or organization, that would have the effect of amending the building code for the entire state of Washington. Statewide amendments to the state building code must be adopted in accordance with the Administrative Procedure Act, chapter 34.05 RCW.

(10) "State building code update cycle" means that period during which the model code and standards referenced in chapter 19.27 RCW are updated and amended by the council in accordance with the Administrative Procedure Act, chapter 34.05 RCW hereinafter referred to as the "adoption period" and those additional periods when code changes are received for review as proposed amendments to the model codes, hereinafter referred to as "submission periods."

[Statutory Authority: RCW 19.27.190, 19.27.020, and chapters 19.27 and 34.05 RCW. 05-23-104, § 51-04-015, filed 11/17/05, effective 1/1/06. Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-107, § 51-04-015, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.035 and 19.27.074. 98-24-077, § 51-04-015, filed 12/1/98, effective 7/1/99. Statutory Authority: RCW 19.27.074. 98-02-048, § 51-04-015, filed 1/5/98, effective 7/1/98. Statutory Authority: RCW 19.27.035 and chapter 34.05 RCW. 94-05-058, § 51-04-015, filed 2/10/94, effective 3/13/94. Statutory Authority: Chapters 19.27 and 34.05 RCW and 1989 c 348. 90-02-108, § 51-04-015, filed 1/3/90, effective 2/3/90.]

WAC 51-04-020 Policies for the consideration of proposed statewide amendments. Statewide and emergency statewide amendments to the state building code should be based on one of the following criteria:

- (1) The amendment is needed to address a critical life/safety need.
- (2) The amendment is needed to address a specific state policy or statute.
- (3) The amendment is needed for consistency with state or federal regulations.
- (4) The amendment is needed to address a unique character of the state.
- (5) The amendment corrects errors and omissions.

Statewide and emergency statewide amendments to the state building code shall conform to the purposes, objectives, and standards prescribed in RCW 19.27.020.

The council will accept and consider petitions for emergency statewide amendments to the building code at any time, in accordance with RCW 19.27.074 and chapter 34.05 RCW.

The council will accept and consider all other petitions for statewide amendments in conjunction with the state building code update cycle, in accordance with RCW 19.27.074 and chapter 34.05 RCW, and WAC 51-04-015 and 51-04-020 as follows:

The state building code council shall publicize the state building code amendment process in January of each year. Proposed state amendments must be received by March 1 to be considered for adoption by December 1. The state building code council shall review all proposed statewide amendments and file for future rule making those proposals approved as submitted or as amended by the council. State amendments as approved by the council shall be submitted to the appropriate model code organization, at the direction of the council, except those adopted for consistency with state statutes or regulation and held for further review during the adoption period of those model codes by the council. The effective date of any statewide amendments shall be the same as the effective date of the new edition of the model codes, except for emergency amendments adopted in accordance with chapter 34.05 RCW and deemed appropriate by the council.

The adoption period of new model codes commences upon availability of the publication of the new edition of the model codes and concludes with formal adoption of the building code as amended by the council and final review by the state legislature. For the purposes of this section, the publication of supplements shall not be considered a new edition. The council will consider state amendments to:

The model codes provided that the proposed amendments shall be limited to address changes in the model codes since the previous edition; or, address existing statewide

amendments to the model codes; or, address portions of the state building code other than the model codes.

The state building code council shall consider the action of the model code organizations in their consideration of these proposals.

Within sixty days of the receipt of the new edition of the model codes the council shall enter rule making to update the state building code.

[Statutory Authority: RCW 19.27.190, 19.27.020, and chapters 19.27 and 34.05 RCW. 05-23-104, § 51-04-020, filed 11/17/05, effective 1/1/06. Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-107, § 51-04-020, filed 12/17/03, effective 7/1/04. Statutory Authority: RCW 19.27.035 and chapter 34.05 RCW. 94-05-058, § 51-04-020, filed 2/10/94, effective 3/13/94. Statutory Authority: Chapters 19.27 and 34.05 RCW and 1989 c 348. 90-02-108, § 51-04-020, filed 1/3/90, effective 2/3/90; Order 76-02, § 51-04-020, filed 9/1/76.]

WAC 51-04-030 Policies for consideration of proposed local government residential amendments. All amendments to the building code, as adopted by cities and counties for implementation and enforcement in their respective jurisdictions, that apply to single and multifamily buildings as defined by RCW 19.27.015, shall be submitted to the council for approval.

The council shall consider and approve or deny all proposed local government residential amendments to the building code within ninety days of receipt of a proposal, unless alternative scheduling is agreed to by the council and the proposing entity.

All local government residential amendments to the building code that require council approval shall be submitted in writing to the council, after the city or county legislative body has adopted the amendment and prior to implementation and enforcement of the amendment by the local jurisdiction. All local amendments submitted for review shall be accompanied by findings of fact adopted by the governing body of the local jurisdiction justifying the adoption of the local amendment in accordance with the five criteria noted below in this section.

It is the policy of the council to encourage joint proposals for local government residential amendments from more than one jurisdiction. Local government residential amendments submitted to the council for approval should be based on:

- (1) Climatic conditions that are unique to the jurisdiction.
- (2) Geologic or seismic conditions that are unique to the jurisdiction.
- (3) Environmental impacts such as noise, dust, etc., that are unique to the jurisdiction.
- (4) Life, health, or safety conditions that are unique to the local jurisdiction.
- (5) Other special conditions that are unique to the jurisdiction.

EXCEPTIONS: Appendices or portions thereof that have the effect of amending the uniform codes, that do not conflict with the building code for single and multifamily residential buildings as defined by RCW 19.27.015, may be adopted by local jurisdictions without council review or approval.

Local government residential amendments to administrative provisions (departmental operational procedures) contained within the state building code need not be submitted to the Council for review and approval provided

that such amendments do not alter the construction requirements of those chapters.

Those portions of the supplement or accumulative supplements that affect single and multifamily residential buildings as defined by RCW 19.27.015 that are not adopted by the council shall be submitted to the council for consideration as local government residential amendments to the building code.

Local government residential amendments shall conform to the limitations provided in RCW 19.27.040.

[Statutory Authority: RCW 19.27.190, 19.27.020, and chapters 19.27 and 34.05 RCW. 05-23-104, § 51-04-030, filed 11/17/05, effective 1/1/06. Statutory Authority: RCW 19.27.031 and 19.27.074. 04-07-193, § 51-04-030, filed 3/24/04, effective 7/1/04. Statutory Authority: RCW 19.27.035 and 19.27.074. 98-24-077, § 51-04-030, filed 12/1/98, effective 7/1/99. Statutory Authority: Chapter 19.27 RCW. 95-01-127, § 51-04-030, filed 12/21/94, effective 6/30/95. Statutory Authority: Chapters 19.27 and 34.05 RCW and 1989 c 348. 90-02-108, § 51-04-030, filed 1/3/90, effective 2/3/90.]

WAC 51-04-035 Procedure for submittal of proposed local government residential amendments. All proposed local government residential amendments to the state building code shall be submitted in writing to the council, on a form provided by the council, along with findings of fact as required in WAC 51-04-030 for the proposed amendment. Local government residential amendments to administrative provisions (departmental operational procedures) contained within the state building code need not be submitted to the council for review and approval provided that such amendment does not affect the construction requirements of those chapters.

The council shall accept and consider all applications for review of local government residential amendments submitted to the council in a proper manner.

The council may refer a proposed local government residential amendment to one of the council standing committees for review and comment prior to council action in accordance with RCW 19.27.074.

[Statutory Authority: RCW 19.27.190, 19.27.020, and chapters 19.27 and 34.05 RCW. 05-23-104, § 51-04-035, filed 11/17/05, effective 1/1/06. Statutory Authority: Chapters 19.27 and 34.05 RCW and 1989 c 348. 90-02-108, § 51-04-035, filed 1/3/90, effective 2/3/90.]

WAC 51-04-040 Reconsideration. Any party proposing a statewide or local government amendment to the building code may, upon denial of the amendment by the council, file a petition for reconsideration.

Within ten days of a building code council vote to deny a statewide or local government amendment, any party may file a petition for reconsideration, stating the specific justification for rule adoption or local amendment. The petition shall be filed with the State Building Code Council, P.O. Box 42525, Olympia, Washington 98504-2525.

The council is deemed to have denied the petition for reconsideration if, within sixty days from the date the petition is filed, the council does not either:

- (1) Dispose of the petition; or
- (2) Serve the parties with a written notice specifying the date by which it will act on the petition.

Unless the petition is deemed denied, the petition shall be disposed of by the council with recommendations from the same committee or committees that considered the proposed

rule or local amendment. The disposition shall be in the form of a written notice denying the petition, granting the petition and refiling the rule-making order or approving the local amendment, or granting the petition and setting the matter for further hearings.

[Statutory Authority: RCW 19.27.190, 19.27.020, and chapters 19.27 and 34.05 RCW. 05-23-104, § 51-04-040, filed 11/17/05, effective 1/1/06. Statutory Authority: RCW 19.27.035 and chapters 19.27 and 34.05 RCW. 02-01-113, § 51-04-040, filed 12/18/01, effective 7/1/02. Statutory Authority: Chapters 19.27 and 34.05 RCW and 1989 c 348. 90-02-108, § 51-04-040, filed 1/3/90, effective 2/3/90.]

WAC 51-04-070 Council mailing address. All requests for information, documentation, etc., should be submitted to:

Washington State Building Code Council
906 Columbia St SW
Post Office Box 42525
Olympia, Washington 98504-2525
360-725-2966

[Statutory Authority: RCW 19.27.190, 19.27.020, and chapters 19.27 and 34.05 RCW. 05-23-104, § 51-04-070, filed 11/17/05, effective 1/1/06. Statutory Authority: RCW 19.27.074. 98-02-048, § 51-04-070, filed 1/5/98, effective 7/1/98. Statutory Authority: Chapters 19.27 and 34.05 RCW and 1989 c 348. 90-02-108, § 51-04-070, filed 1/3/90, effective 2/3/90.]

Chapter 51-11 WAC

WASHINGTON STATE ENERGY CODE

WAC

51-11-1423

Economizers.

WAC 51-11-1423 Economizers. Economizers meeting the requirements of Section 1413 shall be installed on:

- a. Cooling units installed outdoors or in a mechanical room adjacent to outdoors having a total cooling capacity greater than 20,000 Btu/h including those serving computer server rooms, electronic equipment, radio equipment, telephone switchgear; and
- b. Other cooling units with a total cooling capacity greater than 54,000 Btu/h, including those serving computer server rooms, electronic equipment, radio equipment, and telephone switchgear.

Exception: For Group R Occupancy, economizers meeting the requirements of Section 1413 shall be installed on single package unitary fan-cooling units having a total cooling capacity greater than 54,000 Btu/h.

The total capacity of all units without economizers (i.e., those units with a total cooling capacity less than a. and b. above) shall not exceed 240,000 Btu/h per building, or 10% of its aggregate cooling (economizer) capacity, whichever is greater. That portion of the equipment serving Group R Occupancy is not included in determining the total capacity of all units without economizers in a building.

[Statutory Authority: RCW 19.27A.025, 19.27A.045, and chapters 19.27, 19.27A and 34.05 RCW. 05-23-103, § 51-11-1423, filed 11/17/05, effective 7/1/06; 05-01-013, § 51-11-1423, filed 12/2/04, effective 7/1/05. Statutory Authority: RCW 19.27A.025, 19.27A.045. 02-01-112, § 51-11-1423, filed 12/18/01, effective 7/1/02; 01-03-010, § 51-11-1423, filed 1/5/01, effective 7/1/01; 98-03-003, § 51-11-1423, filed 1/8/98, effective 7/1/98. Statutory Authority: RCW 19.27A.025. 93-21-052, § 51-11-1423, filed 10/18/93, effective 4/1/94.]

Chapter 51-50 WAC**STATE BUILDING CODE ADOPTION AND
AMENDMENT OF THE 2003 EDITION OF THE
INTERNATIONAL BUILDING CODE**
(Formerly chapter 51-40 WAC)**WAC**

51-50-0200	Chapter 2—Definitions.
51-50-0903	Section 903—Automatic sprinkler systems.
51-50-0909	Section 909—Smoke control systems.
51-50-1008	Section 1008—Doors, gates and turnstiles.
51-50-1101	Section 1101—General.
51-50-2406	Section 2406—Safety glazing.

WAC 51-50-0200 Chapter 2—Definitions.**SECTION 202—DEFINITIONS.**

ADULT FAMILY HOME. See Section 310.2.

CHILD DAY CARE. See Section 310.2.

CHILD DAY CARE HOME, FAMILY. See Section 310.2.

NIGHTCLUB. An establishment, other than a theater with fixed seating, which includes all of the following:

1. Provides live entertainment by paid performing artists or by way of recorded music conducted by a person employed or engaged to do so;
 2. Has as its primary source of revenue the sale of beverages of any kind for consumption on the premises and/or cover charges;
 3. Has an occupant load of 100 or more as determined by the fire code official; and
 4. Includes assembly space without fixed seats considered concentrated or standing space per Table 1004.1.2.
- Paid performing artists are those entertainers engaged to perform in a for-profit business establishment.

PORTABLE SCHOOL CLASSROOM. See Section 902.1.

RESIDENTIAL CARE/ASSISTED LIVING FACILITIES. See Section 310.2.

[Statutory Authority: RCW 19.27.020, 19.27.031, 19.27.074, and chapters 19.27 and 34.05 RCW. 05-24-070, § 51-50-0200, filed 12/5/05, effective 7/1/06. Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-0200, filed 12/17/03, effective 7/1/04.]

WAC 51-50-0903 Section 903—Automatic sprinkler systems.

903.2.1.2 Group A-2. An automatic sprinkler system shall be provided for Group A-2 Occupancies where one of the following conditions exists:

1. The fire area exceeds 5,000 square feet (464.5 m²).
2. The fire area has an occupant load of 100 or more.
3. The fire area is located on a floor other than the level of exit discharge.

903.2.1.6 Nightclub. An automatic sprinkler system shall be provided throughout an occupancy with a nightclub. Existing nightclubs constructed prior to July 1, 2006, shall be provided with automatic sprinklers not later than December 1, 2007. The fire code official, for the application of this rule, may establish an occupant load based on the observed use of the occupancy in accordance with Table 1004.1.2.

[2006 WAC Supp—page 96]

903.2.2 Group E. An automatic sprinkler system shall be provided for Group E Occupancies as follows:

1. Throughout all Group E fire areas greater than 20,000 square feet (1858 m²) in area.
2. Throughout every portion of educational buildings below the level of exit discharge.

EXCEPTION: An automatic sprinkler system is not required in any fire area or area below the level of exit discharge where every classroom throughout the building has at least one exterior exit door at ground level.

3. Throughout all newly constructed Group E Occupancies having an occupant load of 50 or more for more than 12 hours per week or four hours in any one day. A minimum water supply meeting the requirements of NFPA 13 shall be required. The fire code official may reduce fire flow requirements for buildings protected by an approved automatic sprinkler system.

For the purpose of this section, additions exceeding 60 percent of the value of such building or structure, or alterations and repairs to any portion of a building or structure within a twelve-month period that exceeds 100 percent of the value of such building or structure shall be considered new construction. In the case of additions, fire walls shall define separate buildings.

- EXCEPTIONS:**
1. Portable school classrooms, provided aggregate area of clusters of portable school classrooms does not exceed 5,000 square feet (465 m²); and clusters of portable school classrooms shall be separated as required in Chapter 5 of the building code.
 2. Group E day care.

When not required by other provisions of this chapter, a fire-extinguishing system installed in accordance with NFPA 13 may be used for increases and substitutions allowed in Section 504.2, 506.3, and Table 601 of the building code.

903.2.10.3 Buildings over 75 feet in height. An automatic sprinkler system shall be installed throughout buildings with a floor level having an occupant load of 30 or more that is located 75 feet (22 860 mm) or more above the lowest level of fire department vehicle access.

- EXCEPTIONS:**
1. Airport control towers.
 2. Open parking structures.
 3. Occupancies in Group F-2.

[Statutory Authority: RCW 19.27.020, 19.27.031, 19.27.074, and chapters 19.27 and 34.05 RCW. 05-24-070, § 51-50-0903, filed 12/5/05, effective 7/1/06. Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-0903, filed 12/17/03, effective 7/1/04.]

WAC 51-50-0909 Section 909—Smoke control systems.

909.6.3 Elevator shaft pressurization. Where elevator shaft pressurization is required to comply with Exception 5 of Section 707.14.1, the pressurization system shall comply with the following.

909.6.3.1 Standards and testing. Elevator shafts shall be pressurized to not less than 0.10 inch water column relative to atmospheric pressure. Elevator pressurization shall be measured with the elevator cars at the designated primary recall level with the doors in the open position. The test shall be conducted at the location of the calculated maximum positive stack effect in the elevator shaft. The measured pressure shall be sufficient to provide 0.10 inch of water column as well as

accounting for the stack and wind effect expected on the mean low temperature January day.

909.6.3.2 Activation. The elevator shaft pressurization system shall be activated by a fire alarm system which shall include smoke detectors or other approved detectors located near the elevator shaft on each floor as approved by the building official and fire chief. If the building has a fire alarm panel, detectors shall be connected to, with power supplied by, the fire alarm panel.

909.6.3.3 Separation. Elevator shaft pressurization equipment and its ductwork located within the building shall be separated from other portions of the building by construction equal to that required for the elevator shaft.

909.6.3.4 Location of intakes. Elevator shaft pressurization air intakes shall be located in accordance with Section 909.10.3. Such intakes shall be provided with smoke detectors which upon detection of smoke, shall deactivate the pressurization fan supplied by that air intake.

909.6.3.5 Power system. The power source for the fire alarm system and the elevator shaft pressurization system shall be in accordance with Section 909.11.

909.6.3.6 Hoistway venting. Hoistway venting required by Section 3004 need not be provided for pressurized elevator shafts.

909.6.3.7 Machine rooms. Elevator machine rooms required to be pressurized by Section 3006.3 need not be pressurized where separated from the hoistway shaft by construction in accordance with Section 707.

909.6.3.8 Special inspection. Special inspection for performance shall be required in accordance with Section 909.18.8. System acceptance shall be in accordance with Section 909.19.

[Statutory Authority: RCW 19.27.020, 19.27.031, 19.27.074, and chapters 19.27 and 34.05 RCW. 05-24-070, § 51-50-0909, filed 12/5/05, effective 7/1/06. Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-0909, filed 12/17/03, effective 7/1/04.]

WAC 51-50-1008 Section 1008—Doors, gates and turnstiles.

1008.1.2 Door swing. Egress doors shall be side-hinged swinging.

- EXCEPTIONS:
1. Private garages, office areas, factory and storage areas with an occupant load of 10 or less.
 2. Group I-3 Occupancies used as a place of detention.
 3. Doors within or serving a single dwelling unit in Groups R-2 and R-3 as applicable in Section 101.2.
 4. In other than Group H Occupancies, revolving doors complying with Section 1008.1.3.1.
 5. In other than Group H Occupancies, horizontal sliding doors complying with Section 1008.1.3.3 are permitted as a means of egress.
 6. Power-operated doors in accordance with Section 1008.1.3.1.
 7. In other than Group H Occupancies, manually operated horizontal sliding doors are permitted in a means of egress from occupied spaces with an occupant load of 10 or less.

Doors shall swing in the direction of egress travel where serving an occupant load of 50 or more persons or a Group H Occupancy.

The opening force for interior side-swinging doors without closers shall not exceed a 5-pound force. For other side-swinging, sliding, and folding doors, the door latch shall release when subjected to a 15-pound force. The door shall be set in motion when subjected to a 30-pound force. The door shall swing to a full-open position when subjected to a 15-pound force. Forces shall be applied to the latch side. Within an accessible route, at exterior doors where environmental conditions require a closing pressure greater than 8.5 pounds, power operated doors shall be used within the accessible route of travel.

[Statutory Authority: RCW 19.27.020, 19.27.031, 19.27.074, and chapters 19.27 and 34.05 RCW. 05-24-070, § 51-50-1008, filed 12/5/05, effective 7/1/06. Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-1008, filed 12/17/03, effective 7/1/04.]

WAC 51-50-1101 Section 1101—General.

1101.2 Design. Buildings and facilities shall be designed and constructed to be accessible in accordance with this code and ICC A117.1, except those portions of ICC A117.1 amended by this section.

1101.2.1 (ICC A117.1 Section 403) Landings for walking surfaces. The maximum rise for any run is 30 inches (762 mm). Landings shall be provided at the top and bottom of any run. Landings shall be level and have a minimum dimension measured in the direction of travel of not less than 60 inches (1525 mm).

1101.2.2 (ICC A117.1 Section 403.5) Clear width of accessible route. Clear width of an accessible route shall comply with ICC A117.1 Table 403.5. For exterior routes of travel, the minimum clear width shall be 44 inches (1118 mm).

1101.2.3 (ICC A117.1 Section 404.2.9) Door-opening force. Fire doors shall have the minimum opening force allowable by the appropriate administrative authority. The maximum force for pushing open or pulling open doors other than fire doors shall be as follows:

1. Interior hinged door: 5.0 pounds (22.2 N)
2. Sliding or folding doors: 5.0 pounds (22.2 N)

At exterior doors where environmental conditions require a closing pressure greater than 8.5 pounds, power operated doors shall be used within the accessible route of travel.

These forces do not apply to the force required to retract latch bolts or disengage other devices that hold the door in a closed position.

1101.2.4 (ICC A117.1 Section 407.4.6.2.2) Arrangement. This section is not adopted.

1101.2.5 (ICC A117.1 Sections 603.4 and 604.11) Coat hooks, shelves, dispensers, and other fixtures. Coat hooks provided shall accommodate a forward reach or side reach complying with ICC A117.1 Section 308. Where provided, shelves shall be installed so that the top of the shelf is 40 inches (1015 mm) maximum above the floor or ground. Drying equipment, towel or other dispensers, and disposal fixtures shall be located 40 inches (1015 mm) maximum above the floor or ground to any rack, operating controls, receptacle or dispenser.

1101.2.6 (ICC A117.1 Section 604.6) Flush controls. Hand operated flush controls for water closets shall be mounted not more than 44 inches (1118 mm) above the floor.

1101.2.9 (ICC A117.1 Section 703.6.3.1) International Symbol of Accessibility. Where the International Symbol of Accessibility is required, it shall be proportioned complying with ICC A117.1 Figure 703.7.2.1. All interior and exterior signs depicting the International Symbol of Accessibility shall be white on a blue background.

1101.2.11 (ICC A117.1 Section 404.3.5) Control switches. Control switches shall be mounted 32 to 40 inches above the floor and not less than 18 inches nor more than 36 inches horizontally from the nearest point of travel of the moving doors.

[Statutory Authority: RCW 19.27.020, 19.27.031, 19.27.074, and chapters 19.27 and 34.05 RCW. 05-24-070, § 51-50-1101, filed 12/5/05, effective 7/1/06; 05-01-014, § 51-50-1101, filed 12/2/04, effective 7/1/05. Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-108, § 51-50-1101, filed 12/17/03, effective 7/1/04.]

WAC 51-50-2406 Section 2406—Safety glazing.

2406.1.2 Wired glass. This section is not adopted.

[Statutory Authority: RCW 19.27.020, 19.27.031, 19.27.074 and chapters 19.27 and 34.05 RCW. 05-24-070, § 51-50-2406, filed 12/5/05, effective 7/1/06.]

Chapter 51-54 WAC

STATE BUILDING CODE ADOPTION AND AMENDMENT OF THE 2003 EDITION OF THE INTERNATIONAL FIRE CODE (Formerly chapters 51-44 and 51-45 WAC)

WAC

51-54-0200
51-54-0900

Chapter 2—Definitions.
Chapter 9—Fire protection systems.

WAC 51-54-0200 Chapter 2—Definitions.

SECTION 202 GENERAL DEFINITIONS.

ADULT FAMILY HOME means a dwelling in which a person or persons provide personal care, special care, room and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services.

CHILD DAY CARE, shall, for the purposes of these regulations, mean the care of children during any period of a 24-hour day.

ELECTRICAL CODE is the National Electrical Code, promulgated by the National Fire Protection Association, as adopted in chapter 296-46 WAC, or the locally adopted Electrical Code.

FAMILY CHILD DAY CARE HOME is a child day care facility, licensed by the state, located in the dwelling of the person or persons under whose direct care and supervision the child is placed, for the care of twelve or fewer children, including children who reside at the home.

NIGHTCLUB. An establishment, other than a theater with fixed seating, which includes all of the following:

1. Provides live entertainment by paid performing artists or by way of recorded music conducted by a person employed or engaged to do so;

2. Has as its primary source of revenue the sale of beverages of any kind for consumption on the premises and/or cover charges;

3. Has an occupant load of 100 or more as determined by the fire code official; and

4. Includes assembly space without fixed seats considered concentrated or standing space per Table 1004.1.2.

Paid performing artists are those entertainers engaged to perform in a for-profit business establishment.

EDUCATIONAL GROUP E. Educational Group E Occupancy includes, among others, the use of a building or structure, or a portion thereof, by six or more persons at any one time for educational purposes through the 12th grade. Religious educational rooms and religious auditoriums, which are accessory to churches in accordance with Section 302.2 of the IBC and have occupant loads of less than 100, shall be classified as Group A-3 Occupancies.

Day Care. The use of a building or structure, or portion thereof, for educational, supervision or personal care services for more than five children older than 2 1/2 years of age, shall be classified as a Group E Occupancy.

EXCEPTION: Family child day care homes licensed by the Washington state department of social and health services for the care of twelve or fewer children shall be classified as Group R3.

INSTITUTIONAL GROUP I. Institutional Group I Occupancy includes, among others, the use of a building or structure, or a portion thereof, in which people, cared for or living in a supervised environment and having physical limitations because of health or age, are harbored for medical treatment or other care or treatment, or in which people are detained for penal or correctional purposes or in which the liberty of the occupants is restricted. Institutional occupancies shall be classified as Group I-1, I-2, I-3 or I-4.

Group I-1. This occupancy shall include buildings, structures or parts thereof housing more than 16 persons, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment that provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. This group shall include, but not be limited to, the following:

- Residential board and care facilities
- Assisted living facilities
- Halfway houses
- Group homes
- Congregate care facilities
- Social rehabilitation facilities
- Alcohol and drug centers
- Convalescent facilities

A facility such as the above with five or fewer persons and adult family homes licensed by the Washington state department of social and health services shall be classified as a Group R-3 or shall comply with the *International Residential Code* in accordance with Section 101.2. A facility such as above, housing at least six and not more than 16 persons, shall be classified as Group R-4.

A facility such as the above providing licensed care to clients in one of the categories listed in Section 313.1 regulated by either the Washington department of health or the department of social and health services shall be classified as Licensed Care Group LC.

Group I-2. This occupancy shall include buildings and structures used for medical, surgical, psychiatric, nursing or custodial care on a 24-hour basis of more than five persons who are not capable of self-preservation. This group shall include, but not be limited to, the following:

Hospitals

Nursing homes (both intermediate-care facilities and skilled nursing facilities)

Mental hospitals

Detoxification facilities

A facility such as the above with five or fewer persons shall be classified as Group R-3 or shall comply with the *International Residential Code* in accordance with Section 101.2.

A facility such as the above providing licensed care to clients in one of the categories listed in Section 313.1 regulated by either the Washington department of health or the department of social and health services shall be classified as Licensed Care Group LC.

Group I-3. (Remains as printed in the IFC.)

Group I-4. Day care facilities. This group shall include buildings and structures occupied by persons of any age who receive custodial care for less than 24 hours by individuals other than parents or guardians, relatives by blood marriage, or adoption, and in a place other than the home of the person cared for. A facility such as the above with five or fewer persons shall be classified as Group R-3 or shall comply with the *International Residential Code*. Places of worship during religious functions are not included.

Adult care facility. A facility that provides accommodations for less than 24 hours for more than five unrelated adults and provides supervision and personal care services shall be classified as Group I-4.

EXCEPTION: Where the occupants are capable of responding to an emergency situation without physical assistance from the staff, the facility shall be classified as Group A-3.

Child care facility. A facility that provides supervision and personal care on a less than 24-hour basis for more than five children 2 1/2 years of age or less shall be classified as Group I-4.

EXCEPTIONS: 1. A child day care facility that provides care for more than five but no more than 100 children 2 1/2 years or less of age, when the rooms where such children are cared for are located on the level of exit discharge and each of these child care rooms has an exit door directly to the exterior, shall be classified as Group E.
2. Family child day care homes licensed by the Washington state department of social and health services for the care of 12 or fewer children shall be classified as Group R3.

RESIDENTIAL GROUP R. Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I or Licensed Care Group LC. Residential occupancies shall include the following:

R-1 Residential occupancies where the occupants are primarily transient in nature, including:

Boarding houses (transient)

Hotels (transient)

Motels (transient)

R-2 Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including:

Apartment houses

Boarding houses (not transient)

Convents

Dormitories

Fraternities and sororities

Monasteries

Vacation timeshare properties

Hotels (nontransient)

Motels (nontransient)

R-3 Residential occupancies where the occupants are primarily permanent in nature and not classified as R-1, R-2, R-4 or I and where buildings do not contain more than two dwelling units as applicable in Section 101.2, including adult family homes and family child day care homes for the care of 12 or fewer children, licensed by the Washington state department of social and health services, or adult and child care facilities that provide accommodations for five or fewer persons of any age for less than 24 hours. Adult family homes and family child day care homes, or adult and child care facilities that are within a single-family home are permitted to comply with the *International Residential Code* in accordance with Section 101.2.

Foster family care homes licensed by the Washington state department of social and health services shall be permitted, as an accessory use to a dwelling, for six or fewer children including those of the resident family.

R-4 Residential occupancies shall include buildings arranged for occupancy as residential care/assisted living facilities including more than five but not more than 16 occupants, excluding staff.

EXCEPTION: Adult family homes, family child day care homes and foster family care homes shall be classified as Group R-3.

Group R-4 occupancies shall meet the requirements for construction as defined for Group R-3 except as otherwise provided for in this code or shall comply with the *International Residential Code* in accordance with Section 101.2.

LICENSED CARE GROUP LC. Licensed Care Group LC includes the use of a building, structure, or portion thereof, for the business of providing licensed care to clients in one of the following categories regulated by either the Washington department of health or the department of social and health services:

1. Adult residential rehabilitation facility.
2. Alcoholism intensive inpatient treatment service.
3. Alcoholism detoxification service.
4. Alcoholism long-term treatment service.
5. Alcoholism recovery house service.
6. Boarding home.
7. Group care facility.
8. Group care facility for severely and multiple handicapped children.
9. Residential treatment facility for psychiatrically impaired children and youth.

EXCEPTION: Where the care provided at an alcoholism detoxification service is acute care similar to that provided in a hospital, the facility shall be classified as a Group I-2 Occupancy.

[Statutory Authority: RCW 19.27.020, 19.27.031, 19.27.074 and chapters 19.27 and 34.05 RCW. 05-24-071, § 51-54-0200, filed 12/5/05, effective 7/1/06. Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-105, § 51-54-0200, filed 12/17/03, effective 7/1/04.]

WAC 51-54-0900 Chapter 9—Fire protection systems.

902.1 Definitions.

PORTABLE SCHOOL CLASSROOM. A structure, transportable in one or more sections, which requires a chassis to be transported, and is designed to be used as an educational space with or without a permanent foundation. The structure shall be trailerable and capable of being demounted and relocated to other locations as needs arise.

903.2.1.2 Group A-2. An automatic sprinkler system shall be provided for Group A-2 Occupancies where one of the following conditions exists:

1. The fire area exceeds 5,000 square feet (464.5 m²).
2. The fire area has an occupant load of 100 or more.
3. The fire area is located on a floor other than the level of exit discharge.

903.2.1.6 Nightclub. An automatic sprinkler system shall be provided throughout an occupancy with a nightclub. Existing nightclubs constructed prior to July 1, 2006, shall be provided with automatic sprinklers not later than December 1, 2007. The fire code official, for the application of this rule, may establish an occupant load based on the observed use of the occupancy in accordance with Table 1004.1.2.

903.2.2 Group E. An automatic sprinkler system shall be provided for Group E Occupancies as follows:

1. Throughout all Group E fire areas greater than 20,000 square feet (1858 m²) in area.
2. Throughout every portion of educational buildings below the level of exit discharge.

EXCEPTION: An automatic sprinkler system is not required in any fire area or area below the level of exit discharge where every classroom throughout the building has at least one exterior exit door at ground level.

3. Throughout all newly constructed Group E Occupancies having an occupant load of 50 or more for more than 12 hours per week or four hours in any one day. A minimum water supply meeting the requirements of NFPA 13 shall be required. The fire code official may reduce fire flow requirements for buildings protected by an approved automatic sprinkler system.

For the purpose of this section, additions exceeding 60 percent of the value of such building or structure, or alterations and repairs to any portion of a building or structure within a twelve-month period that exceeds 100 percent of the value of such building or structure shall be considered new construction. In the case of additions, fire walls shall define separate buildings.

- EXCEPTIONS:**
1. Portable school classrooms, provided aggregate area of clusters of portable school classrooms does not exceed 5,000 square feet (465 m²); and clusters of portable school classrooms shall be separated as required in Chapter 5 of the building code.
 2. Group E Day Care.

When not required by other provisions of this chapter, a fire-extinguishing system installed in accordance with NFPA 13 may be used for increases and substitutions allowed in Section 504.2, 506.3, and Table 601 of the building code.

903.2.10.3 Buildings over 75 feet in height. An automatic sprinkler system shall be installed throughout buildings with a floor level having an occupant load of 30 or more that is located 75 feet (22 860 mm) or more above the lowest level of fire department vehicle access.

- EXCEPTIONS:**
1. Airport control towers.
 2. Open parking structures.
 3. Occupancies in Group F-2.

909.6.3 Elevator shaft pressurization. Where elevator shaft pressurization is required to comply with Exception 5 of Section 707.14.1, the pressurization system shall comply with the following.

909.6.3.1 Standards and testing. Elevator shafts shall be pressurized to not less than 0.10 inch water column relative to atmospheric pressure. Elevator pressurization shall be measured with the elevator cars at the designated primary recall level with the doors in the open position. The test shall be conducted at the location of the calculated maximum positive stack effect in the elevator shaft. The measured pressure shall be sufficient to provide 0.10 inch of water column as well as accounting for the stack and wind effect expected on the mean low temperature January day.

909.6.3.2 Activation. The elevator shaft pressurization system shall be activated by a fire alarm system which shall include smoke detectors or other approved detectors located near the elevator shaft on each floor as approved by the building official and fire chief. If the building has a fire alarm panel, detectors shall be connected to, with power supplied by, the fire alarm panel.

909.6.3.3 Separation. Elevator shaft pressurization equipment and its ductwork located within the building shall be separated from other portions of the building by construction equal to that required for the elevator shaft.

909.6.3.4 Location of intakes. Elevator shaft pressurization air intakes shall be located in accordance with Section 909.10.3. Such intakes shall be provided with smoke detectors which upon detection of smoke, shall deactivate the pressurization fan supplied by that air intake.

909.6.3.5 Power system. The power source for the fire alarm system and the elevator shaft pressurization system shall be in accordance with Section 909.11.

909.6.3.6 Hoistway venting. Hoistway venting required by IBC Section 3004 need not be provided for pressurized elevator shafts.

909.6.3.7 Machine rooms. Elevator machine rooms required to be pressurized by IBC Section 3006.3 need not be pressurized where separated from the hoistway shaft by construction in accordance with IBC Section 707.

909.6.3.8 Special inspection. Special inspection for performance shall be required in accordance with Section 909.18.8. System acceptance shall be in accordance with Section 909.19.

[Statutory Authority: RCW 19.27.020, 19.27.031, 19.27.074 and chapters 19.27 and 34.05 RCW. 05-24-071, § 51-54-0900, filed 12/5/05, effective 7/1/06. Statutory Authority: RCW 19.27.031 and 19.27.074. 04-01-105, § 51-54-0900, filed 12/17/03, effective 7/1/04.]

Title 67 WAC

BLIND, DEPARTMENT OF SERVICES FOR THE

Chapters 67-25

Vocational rehabilitation and services for blind persons.

Chapter 67-25 WAC

VOCATIONAL REHABILITATION AND SERVICES FOR BLIND PERSONS

WAC

67-25-005	Definitions.
67-25-010	Application for services.
67-25-015	Initial interview.
67-25-020	Assessment for eligibility determination.
67-25-025	Eligibility for services.
67-25-030	Eligibility for services—Criteria.
67-25-050	Certification for decision of eligibility.
67-25-055	Eligibility determination—Notice to applicant.
67-25-056	Ineligibility determination—Review.
67-25-060	Criteria for significant disability and most significant disability.
67-25-065	Trial work experience.
67-25-070	Extended evaluation.
67-25-077	Certification of trial work experience or extended evaluation.
67-25-255	Comprehensive assessment.
67-25-257	Assessment—Adaptive skills of blindness.
67-25-260	Individualized plan for employment.
67-25-270	Individualized plan for employment—Participation of the customer.
67-25-275	Individualized plan for employment—Annual review.
67-25-280	Individualized plan for employment—Termination due to ineligibility.
67-25-284	Individualized plan for employment—Termination for reasons other than ineligibility.
67-25-325	Services available from other agencies.
67-25-350	Vocational rehabilitation—Services provided.
67-25-360	Vocational rehabilitation services—Comparable services and benefits.
67-25-380	Vocational rehabilitation services—Counseling and guidance.
67-25-384	Vocational rehabilitation services—Physical and mental restoration services.
67-25-388	Vocational rehabilitation services—General training provisions.
67-25-390	Vocational rehabilitation services—Training—Institutions of higher education.
67-25-394	Vocational rehabilitation services—Training—On-the-job.
67-25-396	Vocational rehabilitation services—Training—Work skill building.
67-25-398	Vocational rehabilitation services—Training—Adaptive skills of blindness.
67-25-399	Vocational rehabilitation services—Transition services for students.
67-25-400	Vocational rehabilitation services—Maintenance.
67-25-404	Vocational rehabilitation services—Transportation.
67-25-408	Vocational rehabilitation services—Services to family members.
67-25-412	Vocational rehabilitation services—Interpreter and translations services.
67-25-416	Vocational rehabilitation services—Reader services.
67-25-418	Vocational rehabilitation services—Personal assistance services.

67-25-432

67-25-436

67-25-440

67-25-444

67-25-446

67-25-448

67-25-452

67-25-460

67-25-540

67-25-545

67-25-550

67-25-570

67-25-590

Vocational rehabilitation services—Rehabilitation technology and telecommunications.

Vocational rehabilitation services—Supported employment services and extended services.

Vocational rehabilitation services—Placement.

Vocational rehabilitation services—Post-employment services.

Vocational rehabilitation—Services to groups.

Vocational rehabilitation services—Occupational licenses, tools, equipment, initial stocks and supplies.

Vocational rehabilitation services provided—Other goods and services.

Order of priority.

Individualized plan for employment—Successful rehabilitation.

Notification of termination.

Confidential information—Protection, use and release.

Resolving a disagreement about vocational rehabilitation services.

Case service records.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

67-25-075

Extended evaluation—Eligibility criteria. [Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-075, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-075, filed 12/15/83. Formerly WAC 67-20-075.] Repealed by 05-08-097, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.18 RCW.

67-25-080

Extended evaluation—Individualized written rehabilitation program. [Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-080, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-080, filed 12/15/83. Formerly WAC 67-20-080.] Repealed by 05-08-097, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.18 RCW.

67-25-085

Extended evaluation—Services provided. [Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-085, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-085, filed 12/15/83. Formerly WAC 67-20-085.] Repealed by 05-08-097, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.18 RCW.

67-25-090

Extended evaluation—Services not provided. [Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-090, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-090, filed 12/15/83. Formerly WAC 67-20-090.] Repealed by 05-08-097, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.18 RCW.

67-25-095

Extended evaluation—Duration of services. [Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-095, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-095, filed 12/15/83. Formerly WAC 67-20-095.] Repealed by 05-08-097, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.18 RCW.

67-25-100

Extended evaluation—Assessment. [Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-100, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-100, filed 12/15/83. Formerly WAC 67-20-100.] Repealed by 05-08-097, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.18 RCW.

67-25-110

Extended evaluation—Termination. [Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-110, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-110, filed 12/15/83. Formerly WAC 67-20-110.] Repealed by 05-08-097, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.18 RCW.

67-25-288

Individualized written rehabilitation program—Termination—Notification of rights. [Statutory Authority: Chapter 74.18 RCW. 98-23-078, § 67-25-288, filed 11/17/98, effective 12/18/98. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-288, filed 2/28/95, effective 3/31/95.] Repealed by 05-08-097, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.18 RCW.

- 67-25-300 Purpose of vocational rehabilitation. [Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-300, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-300, filed 12/15/83. Formerly WAC 67-20-300.] Repealed by 05-08-097, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.18 RCW.
- 67-25-326 Services to special groups of individuals with disabilities. [Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-326, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-326, filed 12/15/83. Formerly WAC 67-20-326.] Repealed by 05-08-097, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.18 RCW.
- 67-25-395 Vocational rehabilitation services—Training—College and trade school. [Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-395, filed 12/15/83. Formerly WAC 67-20-395.] Repealed by 05-08-097, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.18 RCW.
- 67-25-470 How will DSB determine whether a person meets the definition of "most severely disabled"? [Statutory Authority: Federal Regulatory Authority for Order of Selection Rehabilitation Act of 1973, as amended, Section 101 (a)(5). 34 Code of Federal Regulations Part 361 Sec. 361.36 Ability to serve all eligible individuals; order of selection for services. Regulatory Authority for Information and Referral Services Rehabilitation Act of 1973, as amended, Section 101 (a)(20) Information and Referral services. 34 Code of Federal Regulations Part 361 Sec. 361.37 Information and referral services. The Rehabilitation Act of 1973, As Amended, Title I - Vocational Rehabilitation Services, Part A - General Provisions, Section 100 - Declaration of Policy. 01-21-073, § 67-25-470, filed 10/18/01, effective 11/18/01.] Repealed by 05-08-097, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.18 RCW.
- 67-25-480 How will DSB implement an order of priority? [Statutory Authority: Federal Regulatory Authority for Order of Selection Rehabilitation Act of 1973, as amended, Section 101 (a)(5). 34 Code of Federal Regulations Part 361 Sec. 361.36 Ability to serve all eligible individuals; order of selection for services. Regulatory Authority for Information and Referral Services Rehabilitation Act of 1973, as amended, Section 101 (a)(20) Information and Referral services. 34 Code of Federal Regulations Part 361 Sec. 361.37 Information and referral services. The Rehabilitation Act of 1973, As Amended, Title I - Vocational Rehabilitation Services, Part A - General Provisions, Section 100 - Declaration of Policy. 01-21-073, § 67-25-480, filed 10/18/01, effective 11/18/01.] Repealed by 05-08-097, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.18 RCW.
- 67-25-560 Administrative review. [Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-560, filed 2/28/95, effective 3/31/95. Statutory Authority: Chapter 74.18 RCW. 90-11-047, § 67-25-560, filed 5/11/90, effective 6/11/90. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-560, filed 12/15/83. Formerly WAC 67-20-560.] Repealed by 05-08-097, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.18 RCW.

WAC 67-25-005 Definitions. (1) "Act" or "the law," except when context indicates otherwise, means the Rehabilitation Act of 1973 (29 U.S.C. Section 701 et seq.), as amended.

(2) "Applicant" means an individual who has submitted to the department an application or letter requesting vocational rehabilitation services in accordance with WAC 67-25-010.

(3) "Appropriate modes of communication" means specialized aids and supports that enable an individual with a disability to comprehend and respond to information that is being communicated. Appropriate modes of communication include, but are not limited to, the use of interpreters, open and closed captioned videos, specialized telecommunications services and audio recordings, Brailled and large print materials,

materials, materials in electronic formats, augmentative communication devices, graphic presentations, and simple language materials.

(4) "Assessment" means one or more of the following as appropriate in each case:

(a) An assessment to determine eligibility of an individual with a disability for vocational rehabilitation services in accordance with WAC 67-25-020;

(b) A comprehensive assessment, in accordance with WAC 67-25-255, to determine with the individual the employment outcome to be achieved, and a detailed plan of services needed to obtain the employment outcome;

(c) Assignment for order of priority, in accordance with WAC 67-25-460, if the department is unable to serve all eligible individuals;

(d) Trial work experience and extended evaluation, in accordance with WAC 67-25-065 and 67-25-070, if there is a question about the applicant's ability to benefit in terms of an employment outcome from vocational rehabilitation services due to the significance of his or her disability.

(5) "Blind person" means a person who:

(a) Has no vision or whose vision with corrective lenses is so limited that the individual requires alternative methods or skills to do efficiently those things that are ordinarily done with sight by individuals with normal vision;

(b) Has an eye condition of a progressive nature which may lead to blindness; or

(c) Is blind for purposes of the business enterprise program in accordance with RCW 74.18.200.

(6) "Client assistance program (CAP)" means a program, authorized under the act, which assists individuals with disabilities to receive vocational rehabilitation services by providing information and advocacy.

(7) "Competitive employment" means work:

(a) In the competitive labor market that is performed on a full-time or part-time basis in an integrated setting; and

(b) For which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.

(8) "Customer" means any individual with a disability:

(a) Who has been found eligible for vocational rehabilitation services from the department; and

(b) For whom services have not been denied or terminated by the department.

(9) "Department" means the Washington department of services for the blind.

(10) "Director," except when the context indicates otherwise, means the director of the department of services for the blind.

(11) "Eligible individual" means an applicant for vocational rehabilitation services who meets eligibility requirements in accordance with WAC 67-25-030.

(12) "Employment outcome" means, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market, supported employment (WAC 67-25-436), or any other type of employment in an integrated setting, including self-employment, telecommuting, business enterprises, or business ownership, that is consistent with the individual's unique strengths, resources, priorities, concerns, abilities,

capabilities, interests, and informed choice. This definition also includes employment as a homemaker and employment as an unpaid family worker in accordance with procedures to be established by the department for determining the applicability of these outcomes for eligible individuals.

(13) "Employment service provider" means a program that provides directly or facilitates the provision of one or more vocational rehabilitation services, which enable individuals with disabilities to maximize opportunities for employment, including career advancement. Services include:

- (a) Medical, psychiatric, psychological, social, and vocational services provided under one management;
- (b) Testing, fitting, or training in the use of prosthetic and orthotic devices;
- (c) Recreational therapy;
- (d) Physical and occupational therapy;
- (e) Speech, language and hearing therapy;
- (f) Psychiatric, psychological and social services, including positive behavior management;
- (g) Assessment for determining eligibility and vocational rehabilitation needs;
- (h) Rehabilitation technology;
- (i) Job development, placement, and retention services;
- (j) Evaluation or control of specific disabilities;
- (k) Assessment and training in adaptive skills of blindness;
- (l) Extended employment;
- (m) Psychosocial rehabilitation services;
- (n) Supported employment services and extended services;
- (o) Services to family members when necessary for the vocational rehabilitation of the customer;
- (p) Personal assistance services; or
- (q) Services similar to those described in (a) through (p) of this subsection.

(14) "Extended employment" means work in a nonintegrated or sheltered setting for a public or private agency or organization that provides compensation in accordance with the Fair Labor Standards Act. The department will only support extended employment as an intermediate step toward competitive employment.

(15) "Individual with a disability" for purposes of this chapter means an individual who:

- (a) Has a physical or mental impairment which results in a substantial impediment to employment; and
- (b) Can benefit in terms of an employment outcome from vocational rehabilitation services.

(16) "Individual's representative" means any representative chosen by an applicant or eligible individual, as appropriate, including a parent, guardian, other family member, or advocate, unless a representative has been appointed by a court to represent the individual, in which case the court-appointed representative is the individual's representative.

(17) "Informed choice" means the process by which an individual receiving vocational rehabilitation services from the department makes decisions about rehabilitation goals and the services and service providers necessary to reach those goals. Informed choice places primary responsibility for action and decision making with the individual, with sup-

port of a vocational rehabilitation counselor. Individuals have a right to make informed choices relating to:

- (a) Assessment services in accordance with WAC 67-25-020, 67-25-255, and 67-25-257;
- (b) Options for developing the individualized plan for employment in accordance with WAC 67-25-260;
- (c) Vocational rehabilitation services and service providers in accordance with WAC 67-25-350; and
- (d) Employment outcome and work setting.

(18) "Integrated setting" means a setting typically found in the community in which an individual with a disability, including those with the most significant disabilities in accordance with WAC 67-25-060, interact with nondisabled individuals, other than service providers, to the same extent that nondisabled individuals in comparable settings interact with other persons.

(19) "Residence" or "residency" means, for purposes of this chapter, voluntarily living in the state for other than temporary reasons at the time of application.

(20) "Statewide workforce investment system" means a system described in section 111 (d)(2) of the Workforce Investment Act of 1998.

(21) "Substantial impediment to employment" means that a physical or mental impairment (in light of attendant medical, psychological, vocational, educational, communication and other related factors) hinders an individual from preparing for, entering into, engaging in, or retaining employment consistent with the individual's abilities and capabilities.

(22) "Vocational rehabilitation counselor" means a qualified employee of the department who has direct responsibility for providing or supervising the provision of all rehabilitation services to customers.

(23) "Vocational rehabilitation services" means any goods or services necessary for a customer to achieve an employment outcome provided in accordance with WAC 67-25-350.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-005, filed 4/4/05, effective 5/5/05; 98-23-078, § 67-25-005, filed 11/17/98, effective 12/18/98. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-005, filed 2/28/95, effective 3/31/95. Statutory Authority: Chapter 74.18 RCW. 91-20-010, § 67-25-005, filed 9/20/91, effective 10/21/91; 85-06-030 (Order 85-02), § 67-25-005, filed 3/1/85. Statutory Authority: 1983 c 194 § 18. 84-19-003 (Order 84-04), § 67-25-005, filed 9/6/84; 84-01-042 (Order 83-08), § 67-25-005, filed 12/15/83. Formerly WAC 67-20-005.]

WAC 67-25-010 Application for services. (1) Any individual who is blind, as defined in WAC 67-25-005, may apply for vocational rehabilitation services, including any individual who has previously applied for, has previously received, or has previously been denied such services.

(2) Any individual who is blind seeking to obtain vocational rehabilitation services from the department shall submit a written letter or application for services to the department, or shall request vocational rehabilitation services on an intake form at a WorkSource center operated under the statewide workforce investment system.

(3) The written letter or application for services shall be signed and dated by the individual requesting services or, if appropriate, by the individual's representative, and shall include:

- (a) The applicant's name and address;

- (b) The applicant's disability; and
- (c) The applicant's Social Security number.

(4) The department shall not provide vocational rehabilitation services to any individual who has failed to submit a signed and dated letter or application containing the above information.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-010, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-010, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-010, filed 12/15/83. Formerly WAC 67-20-010.]

WAC 67-25-015 Initial interview. (1) An applicant for vocational rehabilitation services shall be interviewed personally by a vocational rehabilitation counselor within ten working days upon receipt of an application by the department.

(2) The interviewer shall:

(a) Explain to the applicant the nature and operation of the vocational rehabilitation program as it relates to the applicant;

(b) Specifically inform the applicant of the right to appeal any eligibility decision made by the department on his or her behalf through mediation and fair hearing in accordance with WAC 67-25-570;

(c) Inform the applicant of his or her right of confidentiality of information possessed by the department and conditions for its release in accordance with WAC 67-25-550;

(d) Provide to the applicant a description of client assistance program services; and

(e) Obtain information from the applicant necessary to determine his or her eligibility for vocational rehabilitation services in accordance with WAC 67-25-020 and 67-25-030.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-015, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-015, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-015, filed 12/15/83. Formerly WAC 67-20-015.]

WAC 67-25-020 Assessment for eligibility determination. (1) An assessment shall be conducted for each applicant to determine whether:

(a) The individual is blind as defined in WAC 67-25-005, which alone or combined with other disabilities results in a substantial impediment to employment; and

(b) Vocational rehabilitation services are required for the applicant to prepare for, enter, engage in, or retain an employment outcome consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(2) If the department is operating under an order of priority, in accordance with WAC 67-25-460, the assessment must also include information to be used for determination of priority for service.

(3) The assessment shall, to the maximum extent possible, be based on a review of existing data in accordance with confidentiality requirements in WAC 67-25-550. The assessment shall, where appropriate, include information provided by the applicant or the applicant's family, education records, information used by the Social Security Administration, determinations made by other agencies, and observations of

the vocational rehabilitation counselor and other appropriate staff members.

(4) To the extent existing data do not describe the current functioning of the individual or are unavailable, insufficient, or inappropriate to make an eligibility determination, the assessment may include provision of vocational rehabilitation services necessary to determine whether the applicant is eligible. Services provided for this purpose may include trial work experience or extended evaluation in accordance with WAC 67-25-065 and 67-25-070. The department will provide assistance to the applicant, if necessary, to assure that the applicant is prepared to make an informed choice in the selection of services needed to make an eligibility decision.

(5) The assessment must include an appraisal of the current visual condition and prognosis of the applicant based on ophthalmological or optometric findings.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-020, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-020, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-020, filed 12/15/83. Formerly WAC 67-20-020.]

WAC 67-25-025 Eligibility for services. (1) The department shall determine whether an individual is eligible for vocational rehabilitation services within sixty days after receipt of an application for services, unless, exceptional and unforeseen circumstances beyond the control of the department preclude completion of the determination within sixty days, in which case, the department will notify the applicant.

(2) The applicant must agree to an extension of eligibility determination or, must agree to participate in trial work experience or extended evaluation in accordance with WAC 67-25-065 and 67-25-070. If the applicant does not agree to an extension of the eligibility determination or does not agree to participate in trial work experience or extended evaluation, the applicant will be determined ineligible for vocational rehabilitation services and the case service record will be closed in accordance with WAC 67-25-055.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-025, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-025, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-025, filed 12/15/83. Formerly WAC 67-20-025.]

WAC 67-25-030 Eligibility for services—Criteria. (1) Eligibility shall be based only upon determination by a vocational rehabilitation counselor that:

(a) The individual is blind, as defined in WAC 67-25-005;

(b) The blindness alone or combined with other disabilities constitutes or results in a substantial impediment to employment; and

(c) Vocational rehabilitation services are required for the individual to prepare for, enter, engage in, or retain an employment outcome consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(2) Any applicant who has been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act and meets the criteria in subsection (1)(a) of this section is presumed eligible for vocational rehabilitation.

tion services and is considered to be an individual with a significant disability as defined in WAC 67-25-060.

(3) If an individual is blind, and the individual's disability results in a substantial impediment to employment, it shall be presumed that the individual can benefit in terms of an employment outcome from vocational rehabilitation services, unless, the department can demonstrate by clear and convincing evidence, in accordance with WAC 67-25-065, that the individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the significance of his or her disability.

(4) Eligibility requirements are applied without regard to the race, color, sex, religion, national origin, creed, marital status, or age of the applicant.

(5) No individual or group of individuals shall be found ineligible solely on the basis of the type of disability.

(6) No individual shall be found ineligible based on requirements for duration of residence.

(7) No individual shall be found ineligible solely on the basis of lack of U.S. citizenship. However, before the department will pay for vocational rehabilitation services, including assessment services, the applicant must provide copies of documents requested by the department that verify his or her immigration and naturalization status, and verify his or her identity. If the applicant is not a United States citizen, his or her legal work status must also be verified. The department will provide services, including assessment services, only to applicants who meet at least one of the following conditions: United States citizenship; permanent residency status in the United States; or when a valid work permit has been issued.

(8) Eligibility requirements are applied without regard to the particular service needs or anticipated cost of services required by an applicant or the income level of an applicant or applicant's family.

(9) An individual who is blind or who has a visual disability which does not result in an impediment to employment, but who may have other disabilities which might result in impediments to employment, may be referred to other service providers or may be provided services through a cooperative plan with other service providers, such as, division of vocational rehabilitation, division of developmental disabilities, and WorkSource centers established under the statewide workforce investment system.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-030, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-030, filed 2/28/95, effective 3/31/95. Statutory Authority: Chapter 74.18 RCW. 91-20-010, § 67-25-030, filed 9/20/91, effective 10/21/91. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-030, filed 12/15/83. Formerly WAC 67-20-030.]

WAC 67-25-050 Certification for decision of eligibility. There shall be a certification of eligibility if the applicant meets the requirements specified in WAC 67-25-030. The certification shall be dated and signed by a vocational rehabilitation counselor.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-050, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-050, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-050, filed 12/15/83. Formerly WAC 67-20-050.]

WAC 67-25-055 Eligibility determination—Notice to applicant. (1) The applicant shall be notified in writing, using appropriate modes of communication, and in the individual's native language if necessary, of the action taken on eligibility or ineligibility.

(2) The applicant shall be advised of the right to appeal any eligibility decision made by the department concerning the applicant including: The procedure to request mediation and fair hearing in accordance with WAC 67-25-570; and a description of client assistance program services.

(3) If an applicant is determined ineligible for vocational rehabilitation services, the notice shall clearly specify how he or she failed to meet the eligibility criteria set forth in WAC 67-25-030.

(4) If the applicant is determined eligible for vocational rehabilitation services, the notice shall clearly specify the date of eligibility certification.

(5) If the vocational rehabilitation counselor determines that an applicant is not eligible for vocational rehabilitation services, the rehabilitation counselor will provide the individual with information and referral to other agencies or organizations that may provide services to meet the individual's employment related needs.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-055, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-055, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-055, filed 12/15/83. Formerly WAC 67-20-055.]

WAC 67-25-056 Ineligibility determination—Review. (1) After twelve months, and annually thereafter, if requested by the individual or by the individual's representative, the department shall complete a review of an ineligibility determination that is based on a finding that the individual is incapable of achieving an employment outcome, unless:

- (a) The individual has refused the review;
- (b) The individual is no longer present in the state; or
- (c) His or her whereabouts are unknown.

(2) The individual, or if appropriate, the individual's representative, shall be given an opportunity to participate in any review and reconsideration of eligibility.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-056, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-056, filed 2/28/95, effective 3/31/95.]

WAC 67-25-060 Criteria for significant disability and most significant disability. (1) An individual with a significant disability is an individual:

(a) Who has a severe physical or mental disability which seriously limits his or her functional capacities (mobility, communication, self-care, self-direction, work tolerance or work skills) in terms of achieving an employment outcome;

(b) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(c) Who has one or more physical or mental disabilities resulting from amputation, arthritis, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorder, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and

other spinal cord conditions, sickle cell anemia and end-stage renal disease, or other disability or combination of disabilities determined on the basis of an assessment of rehabilitation needed to cause comparable substantial functional limitation.

(2) An individual with a most significant disability is an individual:

(a) Who has three or more functional limitations (mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) related to employment; and

(b) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-060, filed 4/4/05, effective 5/5/05. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-060, filed 12/15/83. Formerly WAC 67-20-060.]

WAC 67-25-065 Trial work experience. (1) Trial work experience is a process of providing assessment and related vocational rehabilitation services to an applicant with significant disabilities, for the limited purpose of collecting information necessary to make an eligibility determination, if there is concern that the individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the significance of his or her disability.

(2) Trial work experience will be provided for a customer in an individualized plan for employment, if necessary, to assess his or her capability to continue benefiting, in terms of an employment outcome, from vocational rehabilitation services due to the significance of his or her disability.

(3) Trial work experience allows the individual to explore his or her abilities, capabilities, and capacities to perform in a realistic work situation, while addressing identified barriers to employment through the provision of appropriate vocational rehabilitation services, including supported employment, on-the-job training, rehabilitation technology and personal assistance services in order to accommodate the rehabilitation needs of the individual during the trial work experience.

(4) A written plan, including periodic assessments, must be developed to determine the individual's abilities, capabilities, and capacities, to perform in work situations through use of trial work experiences. The individualized plan for employment, developed in accordance with WAC 67-25-260, must be inactivated while the individual is involved in the trial work experience.

(5) Trial work experience may take place more than once and may extend as long as necessary to determine that:

(a) There is sufficient evidence that the individual can benefit from vocational rehabilitation services and achieve an employment outcome, and is eligible to receive or to continue to receive vocational rehabilitation services; or

(b) There is clear and convincing evidence (a high degree of certainty) based on functional and situational assessments, that the individual cannot benefit from vocational rehabilitation services and achieve an employment outcome, due to the significance of his or her disability, and is not eligible or no longer eligible for vocational rehabilitation services.

(6) If a trial work experience is provided, it must occur in a variety of work environments, include an appropriate range

of tasks, must occur in the most integrated settings possible and be consistent with the individual's informed choice and rehabilitation needs.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-065, filed 4/4/05, effective 5/5/05.]

WAC 67-25-070 Extended evaluation. (1) If an applicant or customer with significant disabilities is unable to participate in a trial work experience or if options for trial work experience have been exhausted before the vocational rehabilitation counselor is able to make the determination of eligibility, an extended evaluation must be conducted. The purpose of the extended evaluation is to obtain information necessary to make an eligibility decision or to determine if trial work experience can be utilized. Extended evaluation involves provision of one or more vocational rehabilitation services designed to assess whether the applicant or customer is capable of benefiting from or capable of continuing to benefit from vocational rehabilitation services in terms of an employment outcome.

(2) A written plan, including periodic assessments, must be developed to determine the individual's abilities, capabilities, and capacities, to perform in work situations through the use of extended evaluation. The individualized plan for employment, developed in accordance with WAC 67-25-260, must be inactivated while the individual is involved in extended evaluation. Only those services considered necessary for making the eligibility or continuing eligibility decision may be provided. Vocational rehabilitation services provided during extended evaluation must be provided in the most integrated setting possible, consistent with the informed choice and rehabilitation needs of the applicant or customer.

(3) Extended evaluation shall be terminated when the department has sufficient information to make the eligibility or continuing eligibility decision.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-070, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-070, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-070, filed 12/15/83. Formerly WAC 67-20-070.]

WAC 67-25-077 Certification of trial work experience or extended evaluation. If an applicant or customer is offered an opportunity for trial work experience or extended evaluation in accordance with WAC 67-25-065 or 67-25-070, there shall be a certification of eligibility for the services specified. The certification shall be dated and signed by a vocational rehabilitation counselor. A copy will be given to the individual with information regarding appeal rights, in accordance with WAC 67-25-570, and information about the client assistance program (CAP).

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-077, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-077, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-077, filed 12/15/83. Formerly WAC 67-20-077.]

WAC 67-25-255 Comprehensive assessment. (1) To the extent possible, current data including: That provided by the customer and his or her family; information available from other programs and providers such as schools and the Social Security Administration; and information utilized for

the determination of eligibility, must be used to determine the employment outcome and the nature and scope of vocational rehabilitation services to be included in the individualized plan for employment, in accordance with WAC 67-25-260. If additional data is necessary, there must be a comprehensive assessment of the unique strengths, resources, priorities, concerns, abilities, capacities, interests, informed choice, and the need for supported employment services of the customer conducted in the most integrated setting possible.

(2) The comprehensive assessment must be limited to information necessary to identify the rehabilitation needs and develop the individualized plan for employment with the individual, and may, if necessary, include:

(a) A comprehensive analysis of pertinent medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors affecting the employment and rehabilitation needs of the individual;

(b) An analysis of the individual's personality, interests, interpersonal skills, intelligence and related functions, educational achievements, work experience, vocational aptitudes, personal, cultural, environmental, and recreational adjustments, and employment opportunities;

(c) Work in a real job situation or use of other available data to evaluate or develop work behaviors and capacities necessary to achieve an employment outcome. This includes an appraisal of the customer's pattern of work behaviors and identification of services needed to acquire occupational skills and to develop work attitudes, work habits, work tolerance, and social and behavior patterns suitable for successful job performance;

(d) Assessment of the need for the provision of rehabilitation technology to develop the capacities of the individual to perform in a work environment, including in an integrated setting, to the maximum extent feasible, consistent with the individual's informed choice.

(3) Information pertaining to conditions or circumstances, such as criminal record, INS identity and work status that restricts the type of employment the customer can legally perform must be disclosed to the department prior to development of the individualized plan for employment.

(4) If a customer desires an employment outcome in a field that customarily requires a background check as a condition of employment, the department must obtain a criminal history background check verifying that the customer is not excluded from employment in the field or specific job prior to development of the individualized plan for employment.

(5) If the department becomes aware of a condition or circumstance that may affect the customer's ability to achieve an employment outcome after the individualized plan for employment has been developed, the vocational rehabilitation counselor will conduct necessary assessment services, including trial work experience or extended evaluation, in accordance with WAC 67-25-065 and 67-25-070, to determine whether the customer is capable of achieving the employment outcome identified in the individualized plan for employment.

(6) If a customer declines to authorize the release of information or to participate in vocational rehabilitation services necessary to collect pertinent information for development of an appropriate individualized plan for employment,

the vocational rehabilitation counselor will close the case service record.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-255, filed 4/4/05, effective 5/5/05; 98-23-078, § 67-25-255, filed 11/17/98, effective 12/18/98. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-255, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-255, filed 12/15/83. Formerly WAC 67-20-255.]

WAC 67-25-257 Assessment—Adaptive skills of blindness. (1) As a part of the assessment to determine vocational rehabilitation service needs, there must be a determination of each individual's use of and ability to benefit from adaptive skills of blindness. Rehabilitation objectives and service needs identified with the customer during this assessment process shall be incorporated into the individualized plan for employment.

(2) Adaptive skills of blindness assessment include, as appropriate in each case:

(a) Communications, including braille and keyboarding;

(b) Personal management;

(c) Orientation and mobility;

(d) Home management;

(e) Activities of daily living;

(f) Personal adjustment to blindness, and if applicable, adjustment to other disabilities;

(g) Ability to benefit from rehabilitation technology; and

(h) Use of residual vision and ability to benefit from low vision devices and related training.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-257, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-257, filed 2/28/95, effective 3/31/95. Statutory Authority: Chapter 74.18 RCW. 85-06-030 (Order 85-02), § 67-25-257, filed 3/1/85.]

WAC 67-25-260 Individualized plan for employment. (1) The individualized plan for employment is a written agreement that documents important decisions made between the customer and a vocational rehabilitation counselor concerning the customer's employment outcome including, responsibilities agreed upon by the department and the customer, and the vocational rehabilitation services to be provided.

(2) The customer must be actively involved in developing the individualized plan for employment including making meaningful and informed choices about the selection of the employment outcome, intermediate objectives, the vocational rehabilitation services provided, service providers, settings, and methods of procuring services.

(3) The employment outcome the customer chooses must be consistent with the information and results of the assessment of the individual's vocational rehabilitation needs.

(4) The department supports customers to achieve an employment outcome as defined in WAC 67-25-005. If a customer chooses another type of employment outcome, the department will, to the extent possible, refer the customer to other programs or organizations that may offer the type of employment that the customer desires.

(5) The individualized plan for employment must be agreed upon and signed by the customer, or as appropriate, the individual's representative, and a vocational rehabilitation counselor.

(6) The individualized plan for employment shall be designed to achieve the employment outcome of the customer consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, and interests of the individual. To the extent possible, consistent with the informed choice of the individual, the plan shall include placement in an integrated setting.

(7) The plan shall include:

(a) The individual's long-term employment outcome based on the assessment for determining vocational rehabilitation needs and the career interests of the individual;

(b) Specific and measurable intermediate rehabilitation objectives to achieve the employment outcome, based on the assessment for determining vocational rehabilitation needs;

(c) Specific vocational rehabilitation services to be provided to achieve the intermediate rehabilitation objectives;

(d) Projected initiation dates and the anticipated duration of each service;

(e) Objective criteria, and an evaluation procedure and schedule to determine whether goals and objectives are being achieved;

(f) The views of the individual, in the words of the individual, or, as appropriate, in the words of the individual's representative, describing how he or she was informed about and involved in choosing among alternative goals, objectives, services, providers, and methods used to procure or provide services, including alternatives in integrated settings;

(g) How, to the maximum extent possible, information will be provided to the individual, or if appropriate, to the individual's representative, in his or her native language if necessary, and using appropriate modes of communication;

(h) Terms and conditions for provision of vocational rehabilitation services, including:

(i) Responsibilities the customer has agreed to, including steps the customer will take to achieve the employment outcome, and services the customer agrees to apply for and use that are available at no cost from another program;

(ii) The extent to which goods and services shall be provided in integrated settings, consistent with the informed choices of the individual;

(iii) The extent to which comparable services and benefits, in accordance with WAC 67-25-360, are available to the individual under any other program;

(iv) The entity or entities that will provide services and the process and setting to be used to provide or procure services;

(v) Assessment of the need for post-employment services, in accordance with WAC 67-25-444, prior to closing the case service record, of a customer who has achieved an employment outcome and, if appropriate, a statement of how post-employment services are to be arranged or provided using comparable services and benefits, in accordance with WAC 67-25-360;

(vi) Information regarding the right to appeal any decision made by the department on behalf of the individual including the procedure for mediation, fair hearing, and judicial review, in accordance with WAC 67-25-570;

(vii) A description of client assistance program services; and

(viii) The basis on which the individual is determined to have achieved an employment outcome.

(8) An individualized plan for employment that includes a supported employment outcome, in accordance with WAC 67-25-436 must also document:

(a) The supported employment services to be provided by the department;

(b) Extended services or natural supports that are likely to be needed;

(c) The source of extended services or, to the extent that it is not possible to identify the source of extended services when the plan is developed, a description of the basis for concluding that there is a reasonable expectation that those sources will become available;

(d) A goal for the number of hours per week the customer is expected to work and a plan to monitor the customer's progress toward meeting that expectation;

(e) A description of how the services on the individualized plan for employment are to be coordinated with other individualized plans established under other federal or state services;

(f) If job skills training is provided, the individualized plan for employment must reflect that the training is provided on-site; and

(g) Placement in an integrated setting for the maximum number of hours possible based on the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the customer.

(9) Transition students who are determined eligible for vocational rehabilitation services must have an individualized plan for employment prior to leaving school. An individualized plan for employment for a transition student who is receiving special education services should be coordinated, to the extent possible, with the individualized education plan of the individual in terms of identified goals, objectives, and services.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-260, filed 4/4/05, effective 5/5/05; 98-23-078, § 67-25-260, filed 11/17/98, effective 12/18/98. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-260, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-260, filed 12/15/83. Formerly WAC 67-20-260.]

WAC 67-25-270 Individualized plan for employment—Participation of the customer. (1) A customer or, as appropriate, the individual's representative may develop all or part of the individualized plan for employment:

(a) Independently, without any assistance from the department or another entity;

(b) With assistance from a vocational rehabilitation counselor employed by the department;

(c) With assistance from a vocational rehabilitation counselor who is not employed by the department but who meets the minimum qualifications for a vocational rehabilitation counselor as established by the department; and

(d) Other resources such as a representative, family member, advocate, or other individual.

(2) The department shall provide, as appropriate to each customer, information to assist the individual or the individual's representative in developing the individualized plan for employment, including:

(a) Information describing the full range of components that must be included in an individualized plan for employment;

(b) Information on assistance available for completing required forms; and

(c) Additional information that the customer requests or the department determines to be necessary for development of the individualized plan for employment.

(3) The department will provide assistance to customers who choose to develop their individualized plan for employment with someone other than a department vocational rehabilitation counselor, and will identify individuals, to the extent possible, who may be of help in that process. However, the department will not pay fees or other expenses associated with obtaining assistance from such individuals.

(4) Substantive changes to the individualized plan for employment must be jointly made and agreed upon by the customer and the department vocational rehabilitation counselor.

(5) A copy of the individualized plan for employment and copies of any revisions and amendments shall be provided, using appropriate modes of communication, to the customer or, as appropriate, to the individual's representative.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-270, filed 4/4/05, effective 5/5/05; 98-23-078, § 67-25-270, filed 11/17/98, effective 12/18/98. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-270, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-270, filed 12/15/83. Formerly WAC 67-20-270.]

WAC 67-25-275 Individualized plan for employment—Annual review. (1) The individualized plan for employment shall be reviewed as necessary but at least annually. The customer, or if appropriate, the individual's representative, shall be given an opportunity to review the plan and jointly redevelop and agree to its terms.

(2) Services shall be modified as needed and incorporated into the plan.

(3) If it is determined that the employment outcome of the customer will be changed, the new plan shall not take effect until agreed upon and signed by the customer, or if appropriate, the individual's representative, and the vocational rehabilitation counselor.

(4) If a customer's vision is restored so that he or she is not blind, as defined in WAC 67-25-005, further services shall be limited to those identified in an assessment of vocational rehabilitation service needs in accordance with WAC 67-25-255. If the customer has other disabilities, which result in an impediment to employment, the individual will be referred to the appropriate organization for assistance.

(5) The individualized plan for employment review may be conducted with a qualified vocational rehabilitation counselor who is not employed by the department. However, in such cases, the department vocational rehabilitation counselor shall have final signature authority on the review and any changes to the plan.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-275, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-275, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-275, filed 12/15/83. Formerly WAC 67-20-275.]

WAC 67-25-280 Individualized plan for employment—Termination due to ineligibility. (1) The services under an individualized plan for employment shall be terminated if it is determined, based on clear and convincing evidence in accordance with WAC 67-25-065, that the individual is incapable of achieving an employment outcome and is therefore no longer eligible for vocational rehabilitation services.

(2) A decision to terminate the plan shall only be made with participation of the customer, or as appropriate, the individual's representative.

(3) The views of the customer, or the individual's representative, concerning the decision shall be documented in the plan.

(4) Rationale for the decision must be documented as part of the plan including any assessment results from a trial work experience or extended evaluation in accordance with WAC 67-25-065 and 67-25-070.

(5) When a customer is determined ineligible for vocational rehabilitation services, there shall be a written notification dated and signed by the vocational rehabilitation counselor placed in the customer's case service record, and a copy shall be provided to the customer or to the individual's representative.

(6) The customer shall be notified of the opportunity for review and reconsideration of the decision in accordance with WAC 67-25-056.

(7) The individual will be provided with a description of services and a referral to other programs available from the statewide workforce investment system, including information about services available at a local WorkSource center, that may address the individual's training or employment related needs, and will be referred to local extended employment providers if the ineligibility determination is based on a finding that the individual is incapable of achieving an employment outcome.

(8) Upon termination, the customer, or as appropriate, the individual's representative, will be informed in writing, using appropriate modes of communication and the individual's native language if necessary, of the right to appeal any eligibility decision made by the department on his or her behalf through mediation and fair hearing in accordance with WAC 67-25-570. The customer shall also be provided information on services available from the client assistance program.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-280, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-280, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-280, filed 12/15/83. Formerly WAC 67-20-280.]

WAC 67-25-284 Individualized plan for employment—Termination for reasons other than ineligibility. (1) Vocational rehabilitation services provided under an individualized plan for employment shall be terminated prior to completion if a customer:

(a) Has died;

(b) Cannot be located by the department after reasonable efforts to do so;

(c) Has been institutionalized under circumstances which preclude provision of services for a substantial or indefinite period of time;

(d) Has moved to another jurisdiction and the department is unable to continue provision of services;

(e) Declines to accept or utilize vocational rehabilitation services after reasonable efforts have been made to encourage participation.

(2) A decision to terminate services for any reason described in subsection (1) of this section does not require a review and reconsideration after twelve months pursuant to WAC 67-25-056.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-284, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-284, filed 2/28/95, effective 3/31/95.]

WAC 67-25-325 Services available from other agencies. Vocational rehabilitation funds shall not be expended to purchase services for a customer when another agency has primary responsibility for providing the needed service.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-325, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-325, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-19-003 (Order 84-04), § 67-25-325, filed 9/6/84; 84-01-042 (Order 83-08), § 67-25-325, filed 12/15/83. Formerly WAC 67-20-325.]

WAC 67-25-350 Vocational rehabilitation—Services provided. Based on the vocational rehabilitation needs of each customer, the department will make the following vocational rehabilitation services available to assist the customer in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice:

(1) Assessment for determining eligibility in accordance with WAC 67-25-020, and order of priority for services in accordance with WAC 67-25-460;

(2) Assessment for determining vocational rehabilitation needs in accordance with WAC 67-25-255 and 67-25-257;

(3) Vocational rehabilitation counseling and guidance including information and support services to assist an individual in exercising informed choice in accordance with WAC 67-25-380;

(4) Referral and related services to help the individual secure needed services from other agencies, including other partners in the statewide workforce investment system and referral to the client assistance program;

(5) Physical and mental restoration services in accordance with WAC 67-25-384;

(6) Vocational and other training in accordance with WAC 67-25-388, 67-25-390, 67-25-394, 67-25-396, and 67-25-398, subject to limitations in WAC 67-25-360;

(7) Maintenance related to the provision of vocational rehabilitation services in accordance with WAC 67-25-400;

(8) Transportation related to the provision of vocational rehabilitation services in accordance with WAC 67-25-404;

(9) Services to family members in accordance with WAC 67-25-408;

(10) Interpreter and translation services in accordance with WAC 67-25-412;

(11) Reader services in accordance with WAC 67-25-408;

(12) Assessment and training in adaptive skills of blindness in accordance with WAC 67-25-257 and 67-25-398;

(13) Job search and placement assistance, and job retention services in accordance with WAC 67-25-440;

(14) Supported employment services in accordance with WAC 67-25-436;

(15) Personal assistance services, including training in managing, supervising, and directing these services in accordance with WAC 67-25-418;

(16) Post-employment services in accordance with WAC 67-25-444;

(17) Occupational licenses, tools, equipment, initial stocks, and supplies in accordance with WAC 67-25-448;

(18) Rehabilitation technology and telecommunications services in accordance with WAC 67-25-448;

(19) Transition services for students in accordance with WAC 67-25-399;

(20) Technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources to the extent those resources are authorized to be provided through the statewide workforce investment system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome; and

(21) Other goods and services necessary for the customer to achieve an employment outcome in accordance with WAC 67-25-452.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-350, filed 4/4/05, effective 5/5/05; 98-23-078, § 67-25-350, filed 11/17/98, effective 12/18/98. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-350, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-350, filed 12/15/83. Formerly WAC 67-20-350.]

WAC 67-25-360 Vocational rehabilitation services—Comparable services and benefits. (1) Consideration of comparable services and benefits is required by Section 101(a)(8) of the act. Therefore, this section prevails over all other sections describing conditions under which vocational rehabilitation services shall be provided.

(2) Comparable services and benefits include any financial or other resource for which a customer is legally qualified, or entitled, or meets the criteria for obtaining without undue contingencies. The resource must be an organized, ongoing form of service provision or financial assistance, whether public or private. It must be free or may require a deductible, co-insurance feature, token payment or personal claim.

(3) Customers are required to apply for and accept comparable services and benefits which they are entitled to receive before vocational rehabilitation funds can be expended, except as provided in subsections (5) and (6) of this section.

(4) The vocational rehabilitation counselor has an obligation to inform customers of known sources for comparable services and benefits and shall assist with application for these services when necessary.

(5) The following services are provided without consideration of comparable services and benefits:

(a) Assessment in accordance with WAC 67-25-020, 67-25-055 and 67-25-057;

(b) Counseling and guidance in accordance with WAC 67-25-380;

(c) Referral;

(d) Training services including work skills building and work readiness training, books, and other training materials in accordance with WAC 67-25-388, 67-25-394, 67-25-396, 67-25-398;

(e) Placement services in accordance with WAC 67-25-440;

(f) Rehabilitation technology services in accordance with WAC 67-25-448;

(g) Services listed in (a) through (f) of this subsection as post-employment services in accordance with WAC 67-25-444.

(6) Determination of comparable services and benefits shall not be required if:

(a) Utilization of such a service would delay provision of vocational rehabilitation services to an individual determined to be at extreme medical risk, based on medical evidence provided by a qualified medical professional, indicating a probability of substantially increasing functional impairment or death if medical services, including mental health services, are not provided expeditiously; or

(b) An immediate job placement would be lost due to a delay resulting from utilization of comparable services and benefits.

(7) The following services may be provided only after consideration of comparable services and benefits:

(a) Physical and mental restoration services in accordance with WAC 67-25-384;

(b) Maintenance in accordance with WAC 67-25-400;

(c) Transportation in accordance with WAC 67-25-404;

(d) Services to family members in accordance with WAC 67-25-408;

(e) Interpreter and translation services in accordance with WAC 67-25-412;

(f) Reader services in accordance with WAC 67-25-416;

(g) Training at institutions of higher education in accordance with WAC 67-25-388 and 67-25-390;

(h) Supported employment services in accordance with WAC 67-25-436;

(i) Personal assistance services in accordance with WAC 67-25-418;

(j) Post-employment services, in accordance with WAC 67-25-444, except as specified in subsection (5) of this section;

(k) Occupational licenses, tools, equipment, initial stocks and supplies in accordance with WAC 67-25-448;

(l) Transition services for students in accordance with WAC 67-25-299;

(m) Other goods and services not specified in this section.

(8) Consideration of comparable services and benefits shall be documented in the customer's case services record and shall include sources of assistance considered, whether the customer applied, acceptable reasons for failure to apply, outcome of application, and basis for the decision to expend vocational rehabilitation funds for services described in subsection (7) of this section.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-360, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-360, filed 2/28/95, effective 3/31/95. Statutory Authority: Chapter 74.18 RCW. 85-18-046 (Order 85-10), § 67-25-360, filed 8/30/85. Statutory Authority: 1983 c 194 § 18. 84-19-003 (Order 84-04), § 67-25-360, filed 9/6/84.]

WAC 67-25-380 Vocational rehabilitation services—Counseling and guidance. (1) Counseling and guidance services, based on needs of the individual, shall be available throughout all phases of the rehabilitation process to assist the participant with:

(a) Adjustment to blindness and other disabilities; understanding the importance of developing and using adaptive skills of blindness; and, identifying strategies to overcome negative social attitudes regarding disability;

(b) Identifying his or her unique strengths, resources, priorities, concerns, abilities, and capabilities related to planning for and achieving an employment outcome;

(c) Identifying and overcoming potential barriers to achieving an employment outcome including disability-related, personal, and social factors;

(d) Selecting an employment outcome consistent with his or her abilities, capabilities, and interests;

(e) Obtaining and utilizing resource information to make meaningful and informed choices regarding selection of vocational rehabilitation goals, objectives, services, and providers;

(f) Overcoming potential barriers and achieving an employment outcome through development of skills such as: Study and work habits; grooming; management of finances; preparation for job interviews and tests; self-advocacy; and effective interpersonal relationships.

(2) Counseling and guidance services may also be provided to:

(a) Assist family members to effectively participate in the rehabilitation process;

(b) Assist prospective employers to develop positive attitudes regarding hiring and accommodating individuals who are blind.

(3) Counseling and guidance shall be provided without consideration of comparable services and benefits in accordance with WAC 67-25-360.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-380, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-380, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-380, filed 12/15/83. Formerly WAC 67-20-380.]

WAC 67-25-384 Vocational rehabilitation services—Physical and mental restoration services. (1) Physical and mental restoration services shall be provided to a customer under an individualized plan for employment when the vocational rehabilitation counselor determines that such services are likely, within a reasonable period of time, to substantially correct or modify a stable or slowly progressive physical or mental impairment that constitutes a substantial impediment to employment for the customer.

(2) All authorized physical and mental restoration services shall be provided by qualified.

(3) When receiving physical and mental restoration services, the customer may choose the physician or other health

professional and appropriate facilities. Service providers and facilities should, to the maximum extent appropriate, be selected from those who will accept reimbursement in accordance with the *Washington State Department of Labor and Industries Schedule of Maximum Allowances and Program Descriptions*.

(4) Physical and mental restoration services may be provided to an applicant or customer during trial work experience or extended evaluation, in accordance with WAC 67-25-065 and 67-25-070, if it is necessary to stabilize or halt progression of a chronic illness for purposes of determining eligibility or continued eligibility.

(5) Physical and mental restoration services include but are not limited to:

- (a) Surgical and therapeutic treatment;
 - (b) Diagnosis and treatment for mental or emotional disorders;
 - (c) Dental treatment;
 - (d) Nursing services;
 - (e) Necessary hospitalization (either inpatient or outpatient care) in connection with surgery or treatment and clinic services;
 - (f) Convalescent or nursing home care;
 - (g) Drugs and supplies;
 - (h) Prosthetic, orthopedic or other assistive devices;
 - (i) Eyeglasses and visual services, including visual training, and the examination and services necessary for the prescription and provision of eyeglasses, contact lenses, microscopic lenses, telescopic lenses, and other special visual aids prescribed by qualified medical practitioners;
 - (j) Podiatry;
 - (k) Physical therapy;
 - (l) Occupational therapy.
- (6) Physical and mental restoration services shall be provided only after consideration of comparable services and benefits except as specified in WAC 67-25-360.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-384, filed 4/4/05, effective 5/5/05; 98-23-078, § 67-25-384, filed 11/17/98, effective 12/18/98. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-384, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-384, filed 12/15/83. Formerly WAC 67-20-384.]

WAC 67-25-388 Vocational rehabilitation services—General training provisions. (1) The individualized plan for employment may include any organized form of instruction providing the knowledge and skills necessary for a customer to perform competitively in an occupation and achieve an employment outcome. Knowledge and skills may be acquired through training in an institution, on the job, by correspondence, by tutors, or through a combination of these methods. Training may be given for any occupation, except as prohibited in subsection (2) of this section.

(2) Article IX of the Washington state Constitution forbids use of public funds to assist an individual in the pursuit of a career or degree in theology or related areas.

(3) Programs or schools used to provide training shall be limited to those which are accredited, licensed, or approved either by a legal authority, or are recognized as adequate by the professional or trade group with which they are associated.

(4) The department may provide books, tools and other training materials and shall periodically establish guidelines for determining the provision of these services.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-388, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-388, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-19-003 (Order 84-04), § 67-25-388, filed 9/6/84; 84-01-042 (Order 83-08), § 67-25-388, filed 12/15/83. Formerly WAC 67-20-388.]

WAC 67-25-390 Vocational rehabilitation services—Training—Institutions of higher education. (1) Training at a university, college, community college, vocational school, technical institute, or hospital school of nursing may be provided if necessary to achieve the employment outcome agreed upon by the customer and vocational rehabilitation counselor except as prohibited in accordance with WAC 67-25-388.

(2) No training or training services in institutions of higher education shall be paid for with vocational rehabilitation funds unless the customer has applied for financial aid and other grant assistance from other sources to pay for the training in whole or in part. If the customer has applied for financial aid and is waiting for the results, and denial of training funds by the department would result in interruption or delay of the progress of the customer toward achieving his or her employment outcome, the vocational rehabilitation counselor may pay training costs on an interim basis until the results of the financial aid application is known.

(3) A customer may attend private or out-of-state institutions of higher education in preparation for an employment outcome; however, financial assistance shall be limited to the tuition amount at the University of Washington or the actual cost, whichever is less. Exceptions may be made when required training is not available, or if other significant factors preclude the customer from attending an available training program at a public institution of higher education in the state.

(4) The department may provide financial assistance to a customer wishing to obtain a postgraduate degree when the training is necessary to achieve the individual's employment outcome. However, financial assistance shall not be provided to a customer pursuing a graduate program for the sole purpose of achieving upward mobility unless it can be determined that the customer is not currently employed in work that is consistent with his or her unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice; and the individual requires vocational rehabilitation services to prepare for, secure, retain, or regain employment of this nature.

(5) A customer receiving training at an institution of higher education must meet established scholastic standards required by the program. If the customer's grades fall below minimum standards, it shall be necessary, through assessment, counseling, and planning with the customer, to revise the individualized plan for employment including the possible selection of a new employment outcome.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-390, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-390, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-19-003 (Order 84-04), § 67-25-390, filed 9/6/84; 84-01-042 (Order 83-08), § 67-25-390, filed 12/15/83. Formerly WAC 67-20-390.]

WAC 67-25-394 Vocational rehabilitation services—Training—On-the-job. (1) On-the-job training (OJT) is training service an employer provides to a customer, after the individual is placed in a job, to assist the customer to learn the skills needed to perform the work. On-the-job training may be provided as a vocational rehabilitation service to achieve the customer's employment outcome.

(2) OJT services shall be provided as a program of organized training resulting in employment of the customer, giving the individual the opportunity to learn an occupation under actual conditions of commercial, industrial, or other on-the-job employment. The department will pay for the training costs, and the employer is responsible for costs related to employment.

(3) OJT services shall be provided to a customer only when the vocational rehabilitation counselor establishes that the following conditions have been met:

(a) The training program has been prepared in advance and outlined in detail;

(b) The customer's training will follow a definite schedule of specified operations, instructions, and practices which will insure well-rounded preparation for the customer's selected occupation;

(c) A mutual understanding has been reached between the trainee—customer, the trainer—employment training provider, and the vocational rehabilitation counselor regarding the customer's employment training plan including: Length of the training period; financial arrangements; and operations and skills to be learned;

(d) The employer agrees to closely supervise the customer's work and shall submit regular reports on the customer's progress and performance to the vocational rehabilitation counselor;

(e) The training program meets any requirements for licensing in the trade or occupation in which the customer is to be employed;

(f) The employment training program for the customer is acceptable to other employees of the training provider.

(4) A business or industrial establishment utilized by the department to provide OJT services shall:

(a) Have personnel qualified with appropriate knowledge, skills, and personality to provide instruction;

(b) Have sufficiently diversified operations and adequate, suitable materials and equipment to insure a trainee thorough preparations and training within the scope and limits of his or her occupational objective;

(c) Ensure that training vocational rehabilitation customers is only incidental to the business activity of the facility;

(d) Ensure that the training program shall be consistent with the informed choice of the customer, and designed to assist him or her to achieve an employment outcome in an integrated setting.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-394, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-394, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-394, filed 12/15/83. Formerly WAC 67-20-394.]

WAC 67-25-396 Vocational rehabilitation services—Training—Work skill building. (1) Work skill building and related employment training services may be provided to a

customer through an employment service provider. This option may be appropriate if a customer is not ready for, or does not wish to receive training in an integrated setting.

(2) Work skill building training may be provided to assist the customer with:

(a) Understanding the meaning, value, and demands of work;

(b) Developing appropriate attitudes, habits, and work behaviors; and

(c) Developing functional capacities necessary to achieve an optimum employment outcome.

(3) Prior to provision of work skill building, there shall be an assessment of the individual's patterns of work behavior, and the services needed for him or her to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, social skills, and behavior patterns suitable for successful job performance.

(4) Work skill building shall meet the following criteria:

(a) The training program shall be outlined in detail and agreed upon by the customer, or if appropriate, his or her representative, the vocational rehabilitation counselor, and the employment service provider, and shall include: Anticipated length of training; methods to be used; and objectives to be achieved.

(b) The training program shall, consistent with the informed choice of the customer, be designed to assist him or her to achieve an employment outcome in an integrated setting.

(c) The employment service provider agrees to closely supervise the customer's training and submit regular reports on the customer's progress and performance to the vocational rehabilitation counselor.

(d) The employment service provider is certified by the department of social and health services division of vocational rehabilitation to provide work skill building training.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-396, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-396, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-396, filed 12/15/83. Formerly WAC 67-20-396.]

WAC 67-25-398 Vocational rehabilitation services—Training—Adaptive skills of blindness. (1) Adaptive skills of blindness are those skills necessary for individuals who are blind to function independently, distinguished from the vocational skills necessary to perform a specific occupation. Adaptive skills include:

(a) Communications, including Braille and keyboarding;

(b) Personal management;

(c) Orientation and mobility;

(d) Adjustment to blindness;

(e) Home management;

(f) Activities of daily living;

(g) Use of rehabilitation technology; and

(h) Use of residual vision and related devices.

(2) Training in adaptive skills of blindness shall be provided to a customer in accordance with standards established by the department for instruction of the specific adaptive skill.

(3) Training in adaptive skills of blindness may be provided to a customer under an individualized plan for employ-

ment in accordance with WAC 67-25-260, or during the assessment to determine rehabilitation needs in accordance with WAC 67-25-257.

(4) The department may operate and maintain an orientation and training center as a structured setting to provide assessment and training in adaptive skills of blindness for customers.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-398, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-398, filed 2/28/95, effective 3/31/95.]

WAC 67-25-399 Vocational rehabilitation services—Transition services for students. (1) Transition services are a coordinated set of outcome-based activities for blind students, age fourteen to twenty-one, designed to facilitate school to employment.

(2) Activities shall be based on the individual student's needs, taking into account the student's preferences and interests. Activities shall include instruction, community experience, functional assessment, employment development, instruction in daily living skills, and development of other post-school adult living objectives. Additional activities may include post-secondary education, vocational training, integrated employment (including supported employment), adult services, and independent living.

(3) Students, age sixteen to twenty-one, who choose to seek an employment outcome will be referred to the vocational rehabilitation program.

(4) Case management activities for students who apply for vocational rehabilitation services will be coordinated between the child and family program of the department and the vocational rehabilitation program until the student leaves the K-12 school system.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-399, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-399, filed 2/28/95, effective 3/31/95.]

WAC 67-25-400 Vocational rehabilitation services—Maintenance. (1) Maintenance for living expenses may be provided only when these expenses are in excess of the normal subsistence expenses of a customer, and only when necessary for the individual to participate in services under an individualized plan for employment. Maintenance includes monetary support for food, shelter, clothing and other subsistence items.

(2) Maintenance shall be provided only after consideration of comparable services and benefits in accordance with WAC 67-25-360.

(3) Individuals with emergency needs for shelter, food, financial support, etc. will be referred to community sources who may provide these services.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-400, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-400, filed 2/28/95, effective 3/31/95. Statutory Authority: Chapter 74.18 RCW. 88-09-006 (Order 88-1), § 67-25-400, filed 4/11/88. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-400, filed 12/15/83. Formerly WAC 67-20-400.]

WAC 67-25-404 Vocational rehabilitation services—Transportation. (1) Transportation services for travel and related expenses may be authorized if necessary for an appli-

cant or a customer to receive any vocational rehabilitation service.

(2) Transportation may include:

(a) Fares or travel costs associated with using public or private vehicle;

(b) Food and lodging while in travel status;

(c) Wages, travel, and related expenses for a driver, attendant or aide if the services of that person are necessary for the customer to travel;

(d) Relocation and moving expenses, if necessary for the vocational rehabilitation of the individual.

(3) Transportation services shall be provided only after consideration of comparable services and benefits in accordance with WAC 67-25-360.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-404, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-404, filed 2/28/95, effective 3/31/95. Statutory Authority: Chapter 74.18 RCW. 88-09-006 (Order 88-1), § 67-25-404, filed 4/11/88. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-404, filed 12/15/83. Formerly WAC 67-20-404.]

WAC 67-25-408 Vocational rehabilitation services—Services to family members. (1) A family member is an individual:

(a) Who is a relative or guardian of a customer, or who lives in the same household as a customer;

(b) Who is integrally involved in the vocational rehabilitation of the customer; and

(c) Whose receipt of vocational rehabilitation services would further the vocational rehabilitation of the customer.

(2) Services provided to family members may include any vocational rehabilitation services available to customers in accordance with WAC 67-25-350. However, the services must be directly related to the vocational rehabilitation of the customer. Family members of any age may be served.

(3) A vocational rehabilitation service provided to family members shall be terminated when it no longer substantially contributes to the vocational rehabilitation of the customer.

(4) Services to family members shall be provided only after consideration of comparable services and benefits in accordance with WAC 67-25-360.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-408, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-408, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-408, filed 12/15/83. Formerly WAC 67-20-408.]

WAC 67-25-412 Vocational rehabilitation services—Interpreter and translations services. (1) Interpreter services include sign language or oral interpretation services for individuals who are deaf, or hard of hearing and tactile interpretation services for individuals who are deaf-blind.

(a) Interpreter services must be provided by qualified personnel.

(b) Interpreter services shall be authorized, to the maximum extent possible, in accordance with the department of social and health services schedule of maximum allowances and program descriptions.

(2) Translation services are provided to non-English speaking individuals, and for the individual's representative if

appropriate, during all phases of the rehabilitation process including mediation, fair hearing, and judicial review.

(a) Translation services include oral translation of English into the primary language of an individual.

(b) Upon request, the following written communication shall be translated into the primary language of an applicant or customer:

- (i) Application for services;
- (ii) Notification of eligibility or ineligibility;
- (iii) Individualized plan for employment;
- (iv) Notification of case closure;
- (v) Notification of annual review, if appropriate; and
- (vi) Any notice requiring a response or a signature from an individual to continue receiving services.

(c) The department shall translate the Washington Administrative Code (WAC) regarding VR services or service providers into the primary language of an applicant or customer upon his or her request.

(d) Translation services shall be authorized in accordance with procedures and fee schedules established by the department.

(3) Vocational rehabilitation expenditures for interpreter or translation services for applicants and customers will be authorized in accordance with WAC 67-25-360.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-412, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-412, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-412, filed 12/15/83. Formerly WAC 67-20-412.]

WAC 67-25-416 Vocational rehabilitation services—Reader services. (1) Reader services may be provided to an applicant or customer when necessary to the provision of other vocational rehabilitation services.

(2) Reader services consist of orally reading print material to the blind customer which is not available through other appropriate modes of communication.

(3) If reader services are necessary beyond the initial stages of employment, the department shall, if desired by the individual, assist him or her to negotiate with the employer for reader services as a reasonable accommodation.

(4) Reader services shall be purchased in accordance with the department's procedures and shall be provided only after consideration of comparable services and benefits in accordance with WAC 67-25-360.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-416, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-416, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-416, filed 12/15/83. Formerly WAC 67-20-416.]

WAC 67-25-418 Vocational rehabilitation services—Personal assistance services. (1) Personal assistance services include a range of services provided by at least one person to assist an individual with a disability to perform daily living activities, on or off the job, the individual typically would perform if he or she did not have a disability, and will not be able to perform even after receiving adaptive skills training. This includes personal attendant services: Personal services that an attendant performs for an individual with a disability, including, but not limited to, bathing, feeding, dressing, providing mobility and transportation. These ser-

vices shall, to the extent appropriate and desired by the customer, include training in managing, supervising, and directing personal assistance services.

(2) Personal assistance services may be provided, if necessary, for the customer to achieve an employment outcome, and shall be provided only while the customer is receiving other vocational rehabilitation services.

(3) The case service record must document how personal assistance services will be provided after the completion of vocational rehabilitation services or, to the extent that it is not possible to identify how personal assistance services will be provided when the individualized plan for employment is developed, there must be a description of the basis for concluding that there is a reasonable expectation that resources will become available.

(4) Personal assistance services are provided only after consideration of comparable services and benefits in accordance with WAC 67-25-360.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-418, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-418, filed 2/28/95, effective 3/31/95.]

WAC 67-25-432 Vocational rehabilitation services—Rehabilitation technology and telecommunications. (1) Rehabilitation technology is the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address barriers confronted by customers in education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

(2) The department will provide, as appropriate, rehabilitation technology services throughout all phases of the vocational rehabilitation process for customers. Services include:

- (a) Assessment to determine rehabilitation technology needs;
- (b) Job site and training site analysis including testing and research;
- (c) Rehabilitation engineering services;
- (d) Comprehensive training in the use of assistive technology devices;
- (e) Procurement, installation and follow-up related to assistive technology devices.

(3) Any assistive technology device requiring an individualized prescription or fitting must be provided by a professional who meets any licensing or certification requirements to fill the prescription or to perform the fitting. Aids and devices not requiring individual fittings must meet engineering and safety standards recognized by experts in the field.

(4) Telecommunications services include telecommunication devices and relay services for individuals who are deaf or hearing-impaired. Telecommunications shall be utilized as necessary for service delivery.

(5) Rehabilitation technology services shall be provided without consideration of comparable services and benefits pursuant to WAC 67-25-360.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-432, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-432, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-432, filed 12/15/83. Formerly WAC 67-20-432.]

WAC 67-25-436 Vocational rehabilitation services—Supported employment services and extended services.

(1) Supported employment is competitive employment in an integrated setting, consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, with ongoing support services for customers with the most significant disabilities who need intensive, ongoing support to perform in a work setting.

(2) A customer may be employed in an extended employment setting in which he or she is working toward competitive employment as a planned step in the process of completing an employment outcome in supported employment. While the customer is working toward competitive employment, he or she may be certified to be paid subminimum wages, consistent with provisions of the Fair Labor Standards Act, based on his or her productivity.

(3) An individual shall be eligible to receive supported employment services if:

(a) The individual is eligible for vocational rehabilitation services in accordance with WAC 67-25-030;

(b) The individual needs intensive supported employment services from the department and ongoing services from other resources to perform competitive work due to the nature and significance of his or her disabilities; and

(c) Supported employment is an appropriate employment outcome for the individual based on a comprehensive assessment of his or her rehabilitation needs in accordance with WAC 67-25-255.

(4) A customer with an employment outcome of supported employment may receive any vocational rehabilitation service described in WAC 67-25-350.

(5) Supported employment must occur in an integrated work setting for the maximum number of hours possible, based on the unique strengths, resources, interests, concerns, abilities, and capabilities of the customer with significant disabilities. An integrated setting, in the context of supported employment, is one where:

(a) Most coworkers are not disabled and the customer is not part of a work group of individuals with disabilities; or

(b) Most coworkers are not disabled, and if a job site as described in (a) of this subsection is not possible, the customer is part of a small work group of not more than eight individuals with disabilities; or

(c) If there are no coworkers, or the only coworkers are members of a small work group of not more than eight individuals all of whom have disabilities, the customer has regular contact with nondisabled individuals (other than personnel providing support services) in the immediate work setting.

(6) The department shall provide intensive training and support services during the first eighteen months of supported employment to facilitate the customer's adjustment at the worksite and determine the need for extended services from other resources. Additional services beyond eighteen months may be authorized with supervisory approval based on evidence that additional ongoing support is needed to stabilize the individual in employment. If such evidence is not available, the department must close the case. Support must include:

(a) Ongoing assessment of the customer's employment situation, or under special circumstances or request of the customer, an assessment regarding the customer's employment situation that takes place away from the worksite to: Determine what is needed to maintain job stability; and coordinate services or provide specific intensive services that are needed at or away from the customer's worksite to assist the individual in maintaining job stability.

(b) Intensive job skill training for the customer at the job site by skilled job trainers.

(c) Job development, job placement and job retention services.

(d) Social skills training.

(e) Regular observations or supervision.

(f) Follow-up services such as regular contacts with the customer's employer, the customer, or the customer's representative, and other appropriate individuals to help strengthen and stabilize the job placement.

(g) Facilitation of natural supports at the worksite.

(h) Other services similar to services described in (a) through (g) of this subsection.

(i) Any other vocational rehabilitation services.

(7) The customer shall transition to extended services after receiving supported employment services from the vocational rehabilitation program. Extended services are ongoing support services and other appropriate services needed to support and maintain the customer in supported employment. Long-term funding for extended services may be provided through cooperative agreements with public agencies, nonprofit agencies or organizations; employers; natural supports; and any resource other than federal vocational rehabilitation funds.

(8) An individualized plan for employment with an employment outcome of supported employment must specify the expected extended services needed and, must identify the source, including natural supports, of extended services. If the source of extended services cannot be identified when the individualized plan for employment is developed, supported employment services shall be initiated while resources to provide extended services are sought.

(9) A customer with an employment outcome of supported employment may receive post-employment services in accordance with WAC 67-25-444 when the services to be provided are not the responsibility of the extended services provider.

(10) The department shall provide transitional employment services as supported employment services for a customer with a significant disability due to mental illness. Transitional employment is a series of temporary competitive job placements in integrated work settings with ongoing support services. In transitional employment, ongoing support services must include continuing sequential job placements until job permanency is achieved.

(11) Supported employment services are provided only after consideration of comparable services and benefits in accordance with WAC 67-25-360.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-436, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-436, filed 2/28/95, effective 3/31/95.]

WAC 67-25-440 Vocational rehabilitation services—

Placement. (1) Placement services shall be provided to a customer under an individualized plan for employment to assist the individual with obtaining and retaining appropriate employment consistent with his or her employment outcome.

(2) The department and customer shall be mutually responsible to find and secure suitable employment for the individual. The individualized plan for employment shall describe the nature and scope of placement services to be provided by the department, and the participant's responsibility to actively and independently conduct job-seeking efforts.

(3) Placement services include the following range of activities:

(a) Job development and employer relations (which may or may not be on behalf of a specific customer);

(b) Job task analysis to determine how a person who is blind can be accommodated in a position;

(c) Job-seeking skills training to prepare a customer for employment;

(d) Communication and negotiation with a variety of employment resources and other community resources regarding employment of people who are blind;

(e) Work skill building, counseling, and other follow-up and follow along services to stabilize the customer in employment until the employment outcome has been satisfactorily achieved.

(4) Placement services may be provided using the following methods:

(a) Vocational rehabilitation counselors employed by the department.

(b) An employee specializing in business relations may provide placement services through communication and negotiation with a variety of employers and community resources, regarding employment of people who are blind.

(c) No-cost placement resources in the community such as one-stop WorkSource centers, projects with industry, and other entities shall be utilized whenever possible.

(d) Placement services may be purchased when it is in the customer's vocational interests, when the department's services are not otherwise available, or when placement is offered by an employment service provider as part of a service package.

(5) Placement services shall be terminated when the customer has been provided vocational rehabilitation services, in accordance with an individualized plan for employment, which have enabled the individual to obtain and retain employment in an integrated setting consistent with his or her capacities and abilities for at least ninety days.

(6) Placement services shall be provided without consideration of comparable services and benefits in accordance with WAC 67-25-360.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-440, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-440, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-440, filed 12/15/83. Formerly WAC 67-20-440.]

WAC 67-25-444 Vocational rehabilitation services—

Post-employment services. (1) Post-employment services may be provided to a customer, subsequent to achieving an employment outcome, if necessary for the customer to main-

tain, regain, or advance in employment consistent with the individual's abilities, capabilities, and interests.

(2) Post-employment services are intended to provide short-term intervention related to the established employment outcome. Accordingly, post-employment services do not require a new determination of eligibility, and may be provided as long as the established individualized plan for employment and necessary documentation are available and pertinent.

(3) Post-employment services include all vocational rehabilitation services identified in WAC 67-25-350 and are subject to any conditions affecting provision of that vocational rehabilitation service.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-444, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-444, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-444, filed 12/15/83. Formerly WAC 67-20-444.]

WAC 67-25-446 Vocational rehabilitation—Services to groups. (1) The department may provide the following vocational rehabilitation services to groups of individuals:

(a) Establishment, development, or improvement of a public or other nonprofit employment service provider providing services that promote integration and competitive employment.

(b) Development and implementation of services that enhance the use of modes of communication or telecommunications for individuals with disabilities.

(c) Technical assistance and support services, such as job site modification and other reasonable accommodations, for businesses not subject to Title I of the Americans with Disabilities Act of 1990 that are seeking to employ individuals with disabilities.

(d) Establishment of small business enterprises, operated by individuals with the most significant disabilities under supervision of the department, including, management services and supervision, and the acquisition of vending facilities, equipment, initial stocks, and supplies.

(e) Other services that promise to contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the individualized plan for employment of any one individual.

(2) Services to groups are provided in accordance with department procedures for the provision of these services.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-446, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-446, filed 2/28/95, effective 3/31/95. Statutory Authority: Chapter 74.18 RCW. 92-09-090, § 67-25-446, filed 4/17/92, effective 5/18/92. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-446, filed 12/15/83. Formerly WAC 67-20-446.]

WAC 67-25-448 Vocational rehabilitation services—Occupational licenses, tools, equipment, initial stocks and supplies. (1) Goods and services described in this section may be provided only under an individualized plan for employment when necessary for the customer to achieve an employment outcome. The department will pay for a customer to be bonded if the employment he or she is entering requires a bond and the customer supplies all necessary information to the bonding firm.

(2) Occupational licenses are licenses, permits, or certificates showing that the individual meets certain standards, has accomplished certain achievements, or has paid dues, fees, or has other written authority required by a state, city, or other government unit that qualifies the individual to engage in a business, specific trade, or other work.

(3) Occupational tools include those customarily required for a worker to perform efficiently on the job, and which workers in the same or similar trade or profession are normally provided. These may include specialized tools adapted to accommodate the individual's disability.

(4) Occupational equipment includes occupational fixtures normally found in places of business. These include machinery, and appliances that are usually stationary during utilization. However, self-powered vehicles may also be provided.

(5) Initial stocks include the initial inventory of merchandise or goods necessary for a participant to enter self-employment. It may also include the initial purchase of live-stock as a base stock, and stocks of seed, fertilizer, fuel, etc., for farming or agricultural self-employment.

(6) Initial supplies include expendable items necessary for the customer to carry out day-to-day business operations, and which are consumed on the premises in the course of the customer's self-employment business or in a business enterprise location.

(7) Purchase, accountability, legal title, insurance, maintenance, and other considerations regarding provision of goods and services described in this section are addressed in the department's procedures governing their provision.

(8) Goods and services described in this section shall be provided only after consideration of comparable services and benefits in accordance with WAC 67-25-360.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-448, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-448, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-448, filed 12/15/83. Formerly WAC 67-20-448.]

WAC 67-25-452 Vocational rehabilitation services provided—Other goods and services. (1) Other goods and services not described in this chapter may be provided to a customer when necessary to determine the individual's eligibility for services and rehabilitation needs, or when necessary for the individual to achieve an appropriate employment outcome.

(2) Other goods and services, except those required for assessment of the individual, shall be provided only after consideration of comparable services and benefits in accordance with WAC 67-25-360.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-452, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-452, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-452, filed 12/15/83. Formerly WAC 67-20-452.]

WAC 67-25-460 Order of priority. (1) The purpose of an order of priority is to establish an equitable and organized system which, when resources are not sufficient to meet the demand for services, gives the first priority to those eligible vocational rehabilitation customers who meet the definition

of most significantly disabled, in accordance with WAC 67-25-460.

(2) When the order of priority is in effect, eligible individuals will be assigned to one of two priority categories:

(a) First priority: New eligible customers who meet the definition of most significantly disabled.

(b) Second priority: New eligible customers who do not meet the definition of most significantly disabled.

(3) The director shall decide when to implement an order of priority, if necessary, and will determine which priority categories will be open or closed for the development of new individualized plans for employment. In the event sufficient funds or other resources become available to serve all eligible individuals, the order of priority will be revoked by the director.

(4) Eligible individuals can develop and carry out an individualized plan for employment based on:

(a) The priority of the category to which they are assigned;

(b) Whether or not that category is open for development of new plans; and

(c) The order in which they applied for vocational rehabilitation services as indicated by the date of application.

(5) Customers will be placed in the highest priority category for which they are qualified. The date of application will be used whenever it is determined that a waiting list is required for a category.

(6) Customers will be notified in writing of their category status when they are notified of their eligibility, as well as of the conditions pertaining to that category:

(a) Whether the category is open or closed.

(b) Their position on any existing waiting list.

(7) The only services to individuals in a closed order of priority category will be information and referral services. These individuals will not receive counseling and guidance, assessment and training, placement, or other vocational rehabilitation services until their category is reopened and they come off the waiting list.

(8) Customers will be notified of the right to appeal the category decision, in accordance with WAC 67-25-570, and of their responsibility to notify the department if their situation changes in a way that may affect their priority category placement.

(9) Individuals who are receiving services under an individualized plan for employment at the time an order of priority is implemented will continue to receive services as planned. They are not subject to the order of priority and are not a category within that order.

(10) The order of priority will not affect the provision of services needed to determine eligibility for vocational rehabilitation services, WAC 67-25-010 through 67-25-030.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-460, filed 4/4/05, effective 5/5/05. Statutory Authority: Federal Regulatory Authority for Order of Selection Rehabilitation Act of 1973, as amended, Section 101 (a)(5). 34 Code of Federal Regulations Part 361 Sec. 361.36 Ability to serve all eligible individuals; order of selection for services. Regulatory Authority for Information and Referral Services Rehabilitation Act of 1973, as amended, Section 101 (a)(20) Information and Referral services. 34 Code of Federal Regulations Part 361 Sec. 361.37 Information and referral services. The Rehabilitation Act of 1973, As Amended, Title I - Vocational Rehabilitation Services, Part A - General Provisions, Section 100 - Declaration of Policy. 01-21-073, § 67-25-460, filed 10/18/01, effective 11/18/01.]

WAC 67-25-540 Individualized plan for employment—Successful rehabilitation. (1) An individual shall be considered successfully rehabilitated when he or she has maintained an employment outcome for at least ninety days that is:

(a) The result of services provided under an individualized plan for employment;

(b) Commensurate with the individual's unique strengths, priorities, concerns, abilities, capabilities, interests, and informed choice; and

(c) Whenever possible, employment achieved is competitive as defined by being in the competitive labor market, performed on a full-time or part-time basis in an integrated setting, and the individual is compensated at or above the minimum wage, and the individual's wage and level of benefits are not less than that paid by the employer for the same or similar work performed by nondisabled individuals;

(d) In the most integrated setting possible, consistent with the individual's informed choice; and

(e) Considered to be a satisfactory employment outcome by both the customer and vocational rehabilitation counselor with agreement that the customer is performing satisfactorily on the job.

(2) The individual shall be notified of the termination decision and appeal procedures in accordance with WAC 67-25-545.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-540, filed 4/4/05, effective 5/5/05; 98-23-078, § 67-25-540, filed 11/17/98, effective 12/18/98. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-540, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-540, filed 12/15/83. Formerly WAC 67-20-540.]

WAC 67-25-545 Notification of termination. The department shall provide written notification to every individual who has applied for services, in the individual's primary language if necessary, and using appropriate modes of communication, when a determination is made to terminate services to the individual. The written notice shall specify in detail the reasons for the decision to terminate services and shall clearly inform the individual of the right to mediation and fair hearing in accordance with WAC 67-25-570. A description of client assistance program services shall also be provided.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-545, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-545, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-545, filed 12/15/83. Formerly WAC 67-20-545.]

WAC 67-25-550 Confidential information—Protection, use and release. (1) Confidential information refers to all documented and undocumented personal information, including lists of names and photographs, about any past or present applicant or customer in the vocational rehabilitation program, given or made available to the department, its representatives, or its agents in the course of the administration of the program.

(2) Customers, their representatives as appropriate, service providers, cooperating agencies, and interested persons shall be informed of the confidentiality of personal information and policies governing its use. This information shall be

provided to the applicant or customer, and to the individual's representative in the individual's primary language if necessary, using appropriate modes of communication, and shall include:

(a) Identification of the authority under which information is collected;

(b) Explanation of the principal purposes for which the department intends to use or release information;

(c) Explanation of whether providing requested information is mandatory or voluntary and the effects of not providing requested information;

(d) Identification of those situations where the department requires or does not require informed written consent of the individual before information may be released; and

(e) Identification of other agencies to which information is routinely released.

(3) All personal information must be used only for purposes directly connected with the administration of the vocational rehabilitation program. Personal information shall not be shared with an organization, agency or individual not having official responsibility for administration of the program, except as provided for in subsection (6) of this section.

(4) Except as provided in (a) and (b) of this subsection, the department shall, upon receipt of a written request by a customer, release all information in that individual's record, to the individual or the individual's representative within fifteen working days.

(a) Medical, psychological, or other information that the department determines may be harmful to the individual may not be released directly to the individual, but must be provided to the individual's representative or to a qualified medical or psychological professional or to a person appointed by the court to act as that individual's representative.

(b) Personal information obtained from service providers and cooperating agencies under assurances that the information shall not be further divulged may be released only under conditions established by the other agency or organization except as provided in subsections (5) and (6) of this section.

(5) The customer may request that misleading or inaccurate information in his or her record of services be amended and that such request for amendment be documented in the individual's record.

(6) Personal information may be released to an organization, agency, or individual for purposes of audit, evaluation, or research directly connected with administration of the vocational rehabilitation program, such as the department's rehabilitation council or for purposes that would significantly improve the quality of life for customers, and only if the organization, agency, or individual assures that:

(a) Information shall be used only for the purposes for which it is being provided;

(b) Information shall be released only to persons officially connected with the audit, evaluation, or research;

(c) Information shall not be released to the customer;

(d) Information shall be managed in a manner to safeguard confidentiality; and

(e) The final product shall not reveal any personal identifying information without the informed written consent of the customer or the individual's representative.

(7) The department may release personal information to other agencies and programs under the following conditions:

(a) Upon receiving the informed written consent of the customer, or, the individual's representative if appropriate, the department may release personal information to another agency or organization only to the extent that the information may be released to the customer, and only to the extent that the agency or organization demonstrates that the information requested is necessary for its program.

However, medical or psychological information that the department determines may be harmful to the individual may be released if the agency or organization assures the department that information shall be used only for the purpose for which it is being provided and shall not be released to the customer.

(b) The department shall release personal information if required by federal law or regulation.

(c) The department shall release personal information in response to investigations in connection with law enforcement, fraud, or abuse, unless expressly prohibited by federal or state laws or regulations, or in response to judicial order.

(d) The department may release personal information to protect the participant or others if the individual poses a threat to his or her safety or to the safety of others.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-550, filed 4/4/05, effective 5/5/05; 98-23-078, § 67-25-550, filed 11/17/98, effective 12/18/98. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-550, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-550, filed 12/15/83. Formerly WAC 67-20-550.]

WAC 67-25-570 Resolving a disagreement about vocational rehabilitation services. (1) If at any time during the vocational rehabilitation process, the department makes a decision relating to the provision of vocational rehabilitation services that a customer does not agree with, the customer or the customer's representative has the right to use one or more of the following options to resolve the issue:

(a) Talk to the vocational rehabilitation counselor or to the counselor's supervisor to resolve the disagreement;

(b) Ask for help or information from the client assistance program;

(c) Request mediation; and/or

(d) Request a fair hearing.

(2) Efforts to reach agreement with the vocational rehabilitation counselor or supervisor will not be used to deny or delay mediation or a fair hearing.

(3) Mediation is voluntary and must be agreed to by both the customer and the department. Mediation is not used to deny or delay a fair hearing. A customer may request both mediation and a fair hearing at the same time. If agreement is:

(a) Reached during mediation, the fair hearing is canceled.

(b) Not reached during mediation, the fair hearing is held as scheduled.

(4) Mediation is conducted by a trained mediator who knows the laws and rules about vocational rehabilitation services and who does not work for the department. The mediator does not make case service decisions.

(5) During mediation, the mediator:

(a) Allows each party to present information or evidence;

(b) Helps each party listen to and understand the other party's position;

(c) Reviews and explains any laws that apply; and

(d) Facilitates an agreement, if possible, between the parties.

(6) If agreement is reached during mediation, the department will provide a written statement of the agreement to the customer. Agreements made through mediation are not legally binding.

(7) The customer may choose to be represented by a family member, advocate or other individual at the mediation meeting.

(8) The department schedules mediation sessions in a timely manner at a convenient location to all parties.

(9) The department pays for costs related to mediation, except costs related to a representative or attorney engaged by the customer.

(10) The department will pay for vocational rehabilitation services necessary for the customer to participate in mediation, such as transportation or child care.

(11) Information discussed during mediation is kept confidential and may not be used in a later hearing or civil proceeding, if one is held. Before beginning a mediation session, all parties must sign a statement of confidentiality.

(12) A fair hearing is a proceeding as outlined under the Administrative Procedure Act, chapter 34.05 RCW and chapter 388-02 WAC. An administrative law judge who works for the office of administrative hearings holds a fair hearing.

(13) A customer who does not agree with a decision made by the department about eligibility or vocational rehabilitation services may ask for a fair hearing within twenty days of that decision.

(14) To ask for a fair hearing, the customer must send a written request to the office of administrative hearings. The written request must include:

(a) The customer's name, address, and telephone number;

(b) A written statement about the decision and the reasons for disagreement; and

(c) Any other information that supports the customer's position.

(15) The office of administrative hearings must hold a formal hearing within sixty days of receipt of written request for a hearing, unless:

(a) The customer or the department ask for a delay; and

(b) There is a reasonable cause for the delay.

(16) After the customer submits a request for a fair hearing, the department will offer the customer a prehearing meeting. The prehearing is optional for the customer and can be conducted in person, by telephone, or by another method agreeable to both parties. The purpose of the prehearing meeting is to:

(a) Clarify the decision with which the customer disagrees;

(b) Provide copies of laws, rules or other information to be presented in the fair hearing;

(c) Explain how the fair hearing is conducted; and

(d) Settle the disagreement, if possible.

(17) During the formal hearing, the customer and the department may present information, witnesses and/or documents to support their position.

(18) The customer may choose to be represented by an attorney, a relative, or someone else;

(19) The administrative law judge makes a decision after:

- (a) Hearing all of the information presented;
- (b) Reviewing any documents submitted; and
- (c) Reviewing relevant federal and state laws and regulations.

(20) The office of administrative hearings sends a written report of the findings and decisions to the customer and to the department within thirty days of the formal hearing.

(21) The office of administrative hearings decision is final and the department must implement the decision.

(22) If a customer does not agree with the office of administrative hearings decision, the individual may pursue civil action through superior court to review that decision.

(23) The department will not suspend, reduce, or terminate services to a customer while waiting for a formal hearing decision, unless the department believes the customer:

(a) Provided false information to obtain vocational rehabilitation services; or

(b) Committed fraud or other criminal action to obtain vocational rehabilitation services.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-570, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-570, filed 2/28/95, effective 3/31/95. Statutory Authority: Chapter 74.18 RCW. 90-11-047, § 67-25-570, filed 5/11/90, effective 6/11/90; 88-09-006 (Order 88-1), § 67-25-570, filed 4/11/88. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-570, filed 12/15/83. Formerly WAC 67-20-570.]

WAC 67-25-590 Case service records. The department shall maintain for each applicant or eligible individual a record of services that includes, to the extent pertinent, the following documentation:

(1) If an applicant has been determined ineligible:

(a) Documentation specifying reasons for the ineligibility determination; and

(b) Documentation of a review of the determination in twelve months after the determination was made, except as provided in WAC 67-25-056.

(2) When an applicant is determined eligible:

(a) A written and dated statement of eligibility signed by the vocational rehabilitation counselor; and

(b) Supporting rationale for the determination, including documentation from the assessment for determining eligibility, in accordance with WAC 67-25-020.

(3) If it is determined that a trial work experience or an extended evaluation for an individual with a significant disability is necessary to make an eligibility determination in accordance with WAC 67-25-065 and 67-25-070:

(a) A written and dated statement of this determination signed by the vocational rehabilitation counselor;

(b) Supporting documentation, including the determination that the individual is an individual with a significant disability; and

(c) Documentation of periodic assessments in accordance with WAC 67-25-065 and 67-25-070.

(4) The individualized plan for employment for the customer in accordance with WAC 67-25-260.

(5) Documentation from the assessment for determining vocational rehabilitation needs in accordance with WAC 67-25-255 and 67-25-257 to support:

(a) The determination of the employment outcome and intermediate rehabilitation objectives for the individual; and

(b) The nature and scope of services needed to achieve the intermediate objectives and employment outcome.

(6) Documentation of how the customer was provided information necessary to make informed choices in selecting the employment outcome, intermediate rehabilitation objectives, rehabilitation services, and providers of services identified in the individualized plan for employment.

(7) Documentation of how the customer was provided information regarding the level of integration of service provision and job placement options.

(8) If physical and mental restoration services were provided, in accordance with WAC 67-25-384, documentation supporting the determination that the clinical status of the customer was stable or slowly progressive.

(9) Documentation supporting any decision to provide services to family members in accordance with WAC 67-25-408.

(10) Documentation of the individual's participation in the cost of any vocational rehabilitation services.

(11) Documentation of the individual's eligibility for and use of any comparable services and benefits in accordance with WAC 67-25-360.

(12) Documentation that the individual has been advised of the confidentiality of all personal information, and that any information about the individual has been released with the individual's informed written consent, in accordance with WAC 67-25-550.

(13) Documentation of the reason for terminating services to a customer, in accordance with WAC 67-25-545, and, if the customer was determined rehabilitated, the basis for that determination in accordance with WAC 67-25-540.

(14) Documentation of any plans to provide post-employment services after the employment outcome has been achieved, the basis on which these plans were developed, and a description of services provided and outcomes achieved in accordance with WAC 67-25-444.

(15) Documentation concerning any action and decision resulting from a request for a fair hearing in accordance with WAC 67-25-570.

(16) If a customer has been provided vocational rehabilitation services under an individualized plan for employment, but after the initiation of these services he or she has been determined no longer capable of achieving an employment outcome, documentation of any reviews of this determination in accordance with WAC 67-25-056.

[Statutory Authority: Chapter 74.18 RCW. 05-08-097, § 67-25-590, filed 4/4/05, effective 5/5/05. Statutory Authority: Chapter 74.15 RCW. 95-06-057, § 67-25-590, filed 2/28/95, effective 3/31/95. Statutory Authority: 1983 c 194 § 18. 84-01-042 (Order 83-08), § 67-25-590, filed 12/15/83. Formerly WAC 67-20-590.]

Title 82 WAC

FINANCIAL MANAGEMENT, OFFICE OF

(Formerly: Office of Program Planning and Fiscal Management)

Chapters

82-20	Electronic acceptance and disbursement of funds.
82-50	Pay dates for state employees.
82-60	Self-insurance requirements as to local governments and nonprofit corporations.

Chapter 82-20 WAC

ELECTRONIC ACCEPTANCE AND DISBURSEMENT OF FUNDS

WAC

82-20-010	Purpose.
82-20-025	Definitions.
82-20-035	Is an economic feasibility study required?
82-20-045	Agency requirements.
82-20-050	Financial institution requirements.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

82-20-020	Payroll system requirements. [Statutory Authority: RCW 43.08.085, 82-05-030 (Order 53), § 82-20-020, filed 2/11/82.] Repealed by 05-24-062, filed 12/2/05, effective 1/3/06. Statutory Authority: RCW 43.41.180 and 43.41.110(14).
82-20-030	Agency requirements. [Statutory Authority: RCW 43.08.085, 82-05-030 (Order 53), § 82-20-030, filed 2/11/82.] Repealed by 05-24-062, filed 12/2/05, effective 1/3/06. Statutory Authority: RCW 43.41.180 and 43.41.110(14).
82-20-040	Recipient requirements. [Statutory Authority: RCW 43.08.085, 82-05-030 (Order 53), § 82-20-040, filed 2/11/82.] Repealed by 05-24-062, filed 12/2/05, effective 1/3/06. Statutory Authority: RCW 43.41.180 and 43.41.110(14).
82-20-060	Subsequent transactions. [Statutory Authority: RCW 43.08.085, 82-05-030 (Order 53), § 82-20-060, filed 2/11/82.] Repealed by 05-24-062, filed 12/2/05, effective 1/3/06. Statutory Authority: RCW 43.41.180 and 43.41.110(14).
82-20-070	Failure to comply. [Statutory Authority: RCW 43.08.085, 82-05-030 (Order 53), § 82-20-070, filed 2/11/82.] Repealed by 05-24-062, filed 12/2/05, effective 1/3/06. Statutory Authority: RCW 43.41.180 and 43.41.110(14).

WAC 82-20-010 Purpose. The rules adopted in chapter 82-20 WAC further define and clarify the application of RCW 43.41.180, which authorizes the office of financial management to approve the use of electronic and other technological means to transfer funds whenever economically feasible.

[Statutory Authority: RCW 43.41.180 and 43.41.110(14). 05-24-062, § 82-20-010, filed 12/2/05, effective 1/3/06. Statutory Authority: RCW 43.08.085, 82-05-030 (Order 53), § 82-20-010, filed 2/11/82.]

WAC 82-20-025 Definitions. The following definitions apply throughout this chapter unless the context clearly indicates other meaning:

(1) "Agency" means and includes every state agency, office, board, commission, department, state institution, or state institution of higher education, which includes all state universities, regional universities, and community and technical colleges.

(2) An "economic feasibility study" is a package of information that includes a cover letter, a business case and analytical information. It documents the cost/benefit analysis of an agency's proposed electronic payment project and demonstrates the net benefit of the proposed project.

(3) "Economic feasibility" and "economically feasible" mean that over a reasonable period of time, an application's cumulative benefits outweigh or are equivalent to the application's cumulative costs.

(4) "Electronic and other technological means" and "electronic payments" include, but are not limited to, credit cards, debit cards, electronic fund transfers utilizing the automated clearing house network, electronic benefit transfers, wire transfers, lock boxes, electronic checks, smart cards, and stored value cards.

(5) "Financial institution" means any state or federally chartered commercial bank, trust company, mutual savings bank, savings and loan association, or credit union.

(6) "Funds" means any moneys either received or disbursed by a state agency, and applies to all cash types including treasury funds, treasury trust funds, and local funds.

[Statutory Authority: RCW 43.41.180 and 43.41.110(14). 05-24-062, § 82-20-025, filed 12/2/05, effective 1/3/06.]

WAC 82-20-035 Is an economic feasibility study required? In order for the office of financial management to determine whether or not an application is economically feasible, agencies are required to prepare and submit an economic feasibility study for approval. Agencies must file an economic feasibility study for all new applications to accept or disburse funds by electronic and other technological means and the application must be approved by the office of financial management prior to implementation. This applies to both pilot and permanent applications, and includes, but is not limited to, internet and retail applications. An economic feasibility study is also required for expansions to existing applications. The office of financial management can grant exceptions to the requirement to file an economic feasibility study, for example:

(1) Very small applications and limited expansions to existing approved electronic payment processes may only require a cover letter that incorporates the business case and analytical information. The office of financial management should be contacted to determine if this is an option for a particular application.

(2) Electronic funds transfers into treasury or treasury trust accounts through the automated clearing house network may only require a cover letter to be submitted to the office of financial management that incorporates the business case and analytical information. The office of financial management and the office of the state treasurer should be contacted to determine if this is an option for a particular application.

(3) Applications involving electronic transfers that are limited to information only do not require an economic feasibility study to be submitted. These would include, but are not

limited to, bill presentment, employee earnings statements, and remittance advices.

(4) Wire transfers are usually needed immediately and are singular in nature, therefore they do not require an economic feasibility study. However, the agency must work with the office of the state treasurer to ensure that there is not a less expensive alternative available.

[Statutory Authority: RCW 43.41.180 and 43.41.110(14). 05-24-062, § 82-20-035, filed 12/2/05, effective 1/3/06.]

WAC 82-20-045 Agency requirements. (1) The agency is to establish controls to prevent loss of funds. Controls are to include a positive system of validating the amounts to be transferred and verifying that the amounts to be transferred for a recipient are actually due for goods or services received, work performed, benefits due or other purpose as authorized by law.

(2) The agency is to comply with state administrative and accounting policies established by the office of financial management.

(3) The agency is to work with the office of the state treasurer regarding the banking arrangements related to accepting or disbursing funds via electronic and other technological means.

[Statutory Authority: RCW 43.41.180 and 43.41.110(14). 05-24-062, § 82-20-045, filed 12/2/05, effective 1/3/06.]

WAC 82-20-050 Financial institution requirements. Each participating financial institution is responsible for adherence to federal and state statutes and regulations related to the transfer of funds via electronic and other technological means. The state reserves the right to refuse to do business with any financial institution that fails to comply with federal and state statutes and regulations related to the transfer of funds via electronic and other technological means.

[Statutory Authority: RCW 43.41.180 and 43.41.110(14). 05-24-062, § 82-20-050, filed 12/2/05, effective 1/3/06. Statutory Authority: RCW 43.08.085. 82-05-030 (Order 53), § 82-20-050, filed 2/11/82.]

Chapter 82-50 WAC

PAY DATES FOR STATE EMPLOYEES

WAC

82-50-021 Official lagged, semimonthly pay dates established.

WAC 82-50-021 Official lagged, semimonthly pay dates established. Unless exempted otherwise under the provisions of WAC 82-50-031, the salaries of all state officers and employees are paid on a lagged, semimonthly basis for the official twice-a-month pay periods established in RCW 42.16.010(1). The following are the official lagged, semimonthly pay dates for calendar years 2005 and 2006:

CALENDAR YEAR 2005
Monday, January 10, 2005
Tuesday, January 25, 2005
Thursday, February 10, 2005
Friday, February 25, 2005
Thursday, March 10, 2005
Friday, March 25, 2005
Monday, April 11, 2005
Monday, April 25, 2005
Tuesday, May 10, 2005

CALENDAR YEAR 2006
Tuesday, January 10, 2006
Wednesday, January 25, 2006
Friday, February 10, 2006
Friday, February 24, 2006
Friday, March 10, 2006
Friday, March 24, 2006
Monday, April 10, 2006
Tuesday, April 25, 2006
Wednesday, May 10, 2006

CALENDAR YEAR 2005
Wednesday, May 25, 2005
Friday, June 10, 2005
Friday, June 24, 2005
Monday, July 11, 2005
Monday, July 25, 2005
Wednesday, August 10, 2005
Thursday, August 25, 2005
Friday, September 9, 2005
Monday, September 26, 2005
Friday, October 7, 2005
Tuesday, October 25, 2005
Thursday, November 10, 2005
Wednesday, November 23, 2005
Friday, December 9, 2005
Friday, December 23, 2005

CALENDAR YEAR 2006
Thursday, May 25, 2006
Friday, June 9, 2006
Monday, June 26, 2006
Monday, July 10, 2006
Tuesday, July 25, 2006
Thursday, August 10, 2006
Friday, August 25, 2006
Monday, September 11, 2006
Monday, September 25, 2006
Tuesday, October 10, 2006
Wednesday, October 25, 2006
Thursday, November 9, 2006
Wednesday, November 22, 2006
Monday, December 11, 2006
Friday, December 22, 2006

[Statutory Authority: RCW 42.16.010(1) and 42.16.017. 05-11-038, § 82-50-021, filed 5/11/05, effective 6/11/05; 04-15-006, § 82-50-021, filed 7/7/04, effective 8/7/04; 03-11-073, § 82-50-021, filed 5/20/03, effective 6/20/03; 02-13-087, § 82-50-021, filed 6/18/02, effective 7/19/02; 01-12-007, § 82-50-021, filed 5/24/01, effective 6/24/01; 00-09-088, § 82-50-021, filed 4/18/00, effective 5/19/00; 99-12-081, § 82-50-021, filed 5/28/99, effective 6/28/99; 98-14-079, § 82-50-021, filed 6/30/98, effective 6/30/98; 97-13-064, § 82-50-021, filed 6/17/97, effective 7/18/97; 96-15-039, § 82-50-021, filed 7/11/96, effective 8/11/96; 95-15-031, § 82-50-021, filed 7/11/95, effective 8/11/95; 94-13-097, § 82-50-021, filed 6/15/94, effective 7/16/94; 93-24-041, § 82-50-021, filed 11/23/93, effective 12/24/93; 92-20-038, § 82-50-021, filed 9/29/92, effective 10/30/92; 91-20-061 (Order 91-73), § 82-50-021, filed 9/24/91, effective 10/25/91; 90-17-017 (Order 90-72), § 82-50-021, filed 8/7/90, effective 9/7/90; 89-17-090 (Order 89-70), § 82-50-021, filed 8/22/89, effective 9/22/89; 89-03-063 (Order 89-67), § 82-50-021, filed 1/18/89; 88-16-027 (Order 88-66), § 82-50-021, filed 7/27/88; 87-16-060 (Order 87-65), § 82-50-021, filed 7/30/87; 86-17-001 (Order 86-63), § 82-50-021, filed 8/8/86; 85-16-014 (Order 85-62), § 82-50-021, filed 7/26/85; 84-14-046 (Order 84-61), § 82-50-021, filed 6/29/84; 83-17-118 (Order 83-59), § 82-50-021, filed 8/24/83.]

Chapter 82-60 WAC

SELF-INSURANCE REQUIREMENTS AS TO LOCAL GOVERNMENTS AND NONPROFIT CORPORATIONS

WAC

82-60-010	Preamble and authority.
82-60-020	Definitions.
82-60-030	Adoption of program.
82-60-031	Program financing.
82-60-032	Nondiscrimination in contributions.
82-60-033	Nondiscrimination in joint program assessments.
82-60-034	Disclosures.
82-60-035	Wellness programs.
82-60-036	Termination provisions.
82-60-037	Financial plans.
82-60-038	Third-party administrator contracts.
82-60-039	Preparation for incorporation of nonprofit corporation members.
82-60-040	Risk management.
82-60-050	Claims administration.
82-60-060	Financial reports.
82-60-070	State risk manager may waive requirements.
82-60-080	Conflict of interest.
82-60-100	Expense and operating cost fees.
82-60-200	Appeals of fees.
82-60-210	Appeals of cease and desist orders.

WAC 82-60-010 Preamble and authority. These rules governing local government and nonprofit self-insurance transactions are adopted by the state risk manager to implement chapter 48.62 RCW relating to the management and operations of both individual and joint local government health and welfare benefit and property and liability self-insurance programs and nonprofit property and liability self-insurance programs.

[Statutory Authority: RCW 48.62.061. 05-04-072, amended and recodified as § 82-60-010, filed 2/1/05, effective 3/4/05. Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-010, filed 8/3/93, effective 9/3/93; 92-12-092, § 236-22-010, filed 6/3/92, effective 7/1/92.]

WAC 82-60-020 Definitions. (1) "Actuary" means any person who is qualified under WAC 284-05-060 to provide actuarial services.

(2) "Assessment" means the moneys paid by the members to a joint self-insurance program.

(3) "Beneficiary" means any individual entitled to payment of all or part of a covered claim under a local government health and welfare self-insurance program.

(4) "Claim adjustment expense" means expenses, other than claim payments, incurred in the course of investigating and settling claims.

(5) "Claim" means a demand for payment for damages or policy benefit because of the occurrence of an event such as:

(a) For health and welfare benefits, a covered service or services being delivered; or

(b) For property and liability, the destruction or damage of property or related deaths or injuries.

Unless specifically referenced, the term "claim" is used for both health and welfare and property and liability programs.

(6) "Competitive process" means a documented formal process providing a fair and open opportunity to qualified parties and culminating in a selection based on criteria which may include such factors as the party's fees or costs, ability, capacity, experience, reputation, responsiveness to time limitations, responsiveness to solicitation requirements, quality of previous performance, and compliance with statutes and rules relating to contracts or services.

(7) "Contribution" means the amount paid or payable by the employee into a health and welfare self-insurance program.

(8) "Incurred but not reported, or IBNR" means claims and claim adjustment expenses for covered events which have occurred but have not yet been reported to the self-insurance program as of the date of the financial statement. IBNR claims include (a) known loss events that are expected to be presented later as claims, (b) unknown loss events that are expected to become claims, and (c) expected future development on claims already reported.

(9) "Individual self-insurance program" means a program established and maintained by a local government entity to self-insure health and welfare benefits or property and liability risks on its own behalf.

(10) "Joint self-insurance program" means any two or more local government entities, two or more nonprofit corporations or a combination of local government entities and nonprofit corporations which have entered into a cooperative risk sharing agreement pursuant to the provisions of the Interlocal Cooperation Act (chapter 39.34 RCW) and/or subject to regulation under chapter 48.62 RCW.

(11) "Liability for unpaid claims" means the amount needed to provide for the estimated ultimate cost of settling claims which have occurred on or before a particular date. The estimated liability includes the amount of money that will be needed for future payments on both claims which have been reported and IBNR claims.

(12) "Liability for unpaid claim adjustment expenses" means the amount needed to provide for the estimated ultimate costs required to investigate and settle claims for covered events that have occurred on or before a particular date, whether or not reported to the government entity or nonprofit corporation at that date.

(13) "Member" means a local government entity or nonprofit corporation that is a past or present participant in a joint self-insurance program subject to regulation under chapter 48.62 RCW.

(14) "Nonprofit corporation," as defined in RCW 24.03.005(3), means a corporation no part of the income of which is distributable to its members, directors or officers.

(15) "Self-insurance program" means any individual or joint local government entity or nonprofit corporation self-insurance program required by chapter 48.62 RCW to comply with this chapter.

(16) "Stop-loss insurance" means insurance against the risk of economic loss assumed under a self-insurance program.

(17) "Third-party administrator" means:

(a) An independent association, agency, entity or enterprise which, through a contractual agreement is responsible for the overall operational and financial management of the self-insurance program; or

(b) An independent association, agency, entity or enterprise which, through a contractual agreement, provides a professional service for the analysis, design, implementation, or termination of a self-insurance program; or

(c) An independent association, agency, entity or enterprise which, through a contractual agreement, administers the claim payment process on behalf of a self-insurance program. Such claim administration process includes, but is not limited to, receiving requests for claim payments, investigation, verification and adjustment of the claim. Claim payment disbursement is also considered an administrative process.

[Statutory Authority: RCW 48.62.061. 05-04-072, amended and recodified as § 82-60-020, filed 2/1/05, effective 3/4/05. Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-020, filed 8/3/93, effective 9/3/93.]

WAC 82-60-030 Adoption of program. (1) All self-insurance programs shall provide that the governing body of the local government entity or nonprofit corporation establishing or maintaining a program adopt the self-insurance program by resolution or ordinance. The resolution or ordinance shall include, but not be limited to, funding and expenditure mechanisms.

(2) The interlocal agreement of a joint self-insurance program shall be adopted by resolution or ordinance by each participating member's governing body.

[Statutory Authority: RCW 48.62.061. 05-04-072, amended and recodified as § 82-60-030, filed 2/1/05, effective 3/4/05. Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-030, filed 8/3/93, effective 9/3/93.]

WAC 82-60-031 Program financing. (1) All self-insurance programs shall provide for program financing to pay claims, claims adjustment expenses and the liability for unpaid claims and claims adjustment expenses as they become payable.

(2) All self-insurance programs shall provide a method by which the program financing will be adjusted when it has

been determined to be actuarially insufficient, or when the program is unable to meet debts as they become payable. Any increases shall be large enough to make the program actuarially sufficient.

(3) The claim financing levels and liabilities for unpaid claims and claims adjustment expenses for all individual and joint health and welfare medical self-insurance programs and all joint property and liability self-insurance programs shall be determined annually by an actuary. Such programs that purchase annual aggregate stop loss insurance and fund the self-insured portion to the stop loss insurance attachment point are exempt from the actuarial report requirement. The state risk manager may require a joint self-insurance program to perform an actuarial study when determined necessary to analyze the program's soundness and financial safety.

[Statutory Authority: RCW 48.62.061. 05-04-072, amended and recodified as § 82-60-031, filed 2/1/05, effective 3/4/05. Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-031, filed 8/3/93, effective 9/3/93.]

WAC 82-60-032 Nondiscrimination in contributions.

Contribution rate schedules for individual and joint health and welfare self-insurance programs shall be consistent and nondiscriminatory among beneficiaries of the self-insurance program. This provision is not intended to prohibit choice of coverage for beneficiaries, classes of beneficiaries, or bargaining groups from several offered by the self-insurance program, or to prohibit different contribution schedules between classes of beneficiaries or bargaining groups.

[Statutory Authority: RCW 48.62.061. 05-04-072, recodified as § 82-60-032, filed 2/1/05, effective 3/4/05. Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-032, filed 8/3/93, effective 9/3/93.]

WAC 82-60-033 Nondiscrimination in joint program assessments. Joint self-insurance program assessment formula shall be consistent and nondiscriminatory among new and existing members. Joint self-insurance programs shall not engage in practices that set standard assessment rates lower for new members than those established for existing members.

This provision shall not be construed to prohibit individual choice of coverage by members from several offered by the self-insurance program.

[Statutory Authority: RCW 48.62.061. 05-04-072, recodified as § 82-60-033, filed 2/1/05, effective 3/4/05. Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-033, filed 8/3/93, effective 9/3/93.]

WAC 82-60-034 Disclosures. (1) All health and welfare self-insurance programs shall furnish each employee or retiree covered by the program a written description of the benefits allowable under the program, together with:

- (a) Applicable restrictions, limitations, and exclusions;
- (b) The procedure for filing a claim for benefits;
- (c) The procedure for requesting an adjudication of disputes or appeals arising from beneficiaries regarding the payment or denial of any claim for benefits; and
- (d) A schedule of any direct monetary contributions toward the program financing required by the employee.

Such benefits or procedures shall not be amended without written notice to the covered employees and retirees at least thirty days in advance of the effective date of the change unless exigent circumstances can be demonstrated.

(2) All joint self-insurance programs shall furnish to each member of the program written statements which describe:

- (a) All coverages or benefits currently provided by the program, including any applicable restrictions, limitations, and exclusions;
- (b) The method by which members pay assessments;
- (c) The procedure for filing a claim; and
- (d) The procedure for a member to request an adjudication of disputes or appeals arising from coverage, claim payment or denial, membership, and other issues.

Such statements shall not be amended without written notice to the members at least thirty days in advance of the effective date of the change.

[Statutory Authority: RCW 48.62.061. 05-04-072, amended and recodified as § 82-60-034, filed 2/1/05, effective 3/4/05. Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-034, filed 8/3/93, effective 9/3/93.]

WAC 82-60-035 Wellness programs. Health and welfare self-insurance programs may offer coverage for preventive care, wellness programs, and/or other cost containment measures.

[Statutory Authority: RCW 48.62.061. 05-04-072, recodified as § 82-60-035, filed 2/1/05, effective 3/4/05. Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-035, filed 8/3/93, effective 9/3/93.]

WAC 82-60-036 Termination provisions. (1) All individual and joint health and welfare self-insurance programs and all joint property and liability self-insurance programs shall maintain a written plan that provides for the partial or complete termination of the program and for liquidation of its assets upon termination of the program. The termination procedure shall include, but not be limited to, a provision for the settling of all its liabilities for unpaid claims and claim adjustment expenses.

(2) All joint self-insurance programs shall provide for the termination of membership of a member.

[Statutory Authority: RCW 48.62.061. 05-04-072, amended and recodified as § 82-60-036, filed 2/1/05, effective 3/4/05. Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-036, filed 8/3/93, effective 9/3/93.]

WAC 82-60-037 Financial plans. (1) All self-insurance programs shall maintain a written plan for managing the financial resources of the program. The financial plan shall include:

- (a) A procedure for accounting for moneys received, payments made and liabilities of the program;
- (b) An investment policy; and
- (c) The preparation of accurate annual financial statements of the program.

(2) No financial plan of a self-insurance program shall permit interfund loans from assets held against liabilities for unpaid claims and claim adjustment expenses except for those amounts which are clearly inactive or in excess of liabilities for unpaid claims and claim adjustment expenses.

(3) No financial plan of a joint self-insurance program shall permit loans from assets held against liabilities for unpaid claims and claim adjustment expenses to any member.

[Statutory Authority: RCW 48.62.061. 05-04-072, amended and recodified as § 82-60-037, filed 2/1/05, effective 3/4/05. Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-037, filed 8/3/93, effective 9/3/93.]

WAC 82-60-038 Third-party administrator contracts. (1) Before contracting for third-party administrator professional services, all self-insurance programs shall establish and maintain written standards and procedures for contracting with third-party administrators. Entering a contract for services shall not relieve the entity of its ultimate managerial and financial responsibilities. The procedures shall, as a minimum:

(a) Provide a method of third-party administrator selection using a competitive process;

(b) Require a written description of the services to be provided, remuneration levels, and contract period;

(c) Provide for the confidentiality and ownership of the information, data and other intellectual property developed or shared during the course of the contract;

(d) Provide for the expressed authorization of the self-insurance program to enter the third-party administrator's premises to inspect and audit the records and performance of the third-party administrator which pertains to the program; and

(e) Require the compliance with all applicable local, state and federal laws.

(2) None of the above shall otherwise relieve the entity from other contracting requirements imposed on those entities.

[Statutory Authority: RCW 48.62.061. 05-04-072, amended and recodified as § 82-60-038, filed 2/1/05, effective 3/4/05. Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-038, filed 8/3/93, effective 9/3/93.]

WAC 82-60-039 Preparation for incorporation of nonprofit corporation members. Joint property and liability self-insurance programs whose members are local government entities that are preparing to include nonprofit corporations as members of the program shall, as a minimum, address the following in their plan of operation:

(1) Amount of capitalization each nonprofit corporation will pay to become a member of the self-insurance program;

(2) Self-insured retention level for nonprofit corporation members;

(3) Flexibility in premium assessment rates with emphasis on rates for nonprofit corporations that recognize the potential and actual loss experience of the nonprofit corporation;

(4) Procedures for reviewing the financial soundness of each nonprofit corporation being considered for membership in the self-insurance program; and

(5) Representation of nonprofit corporations on the governing board of directors but local government entities must retain control as required by RCW 48.62.121 (2)(a).

[Statutory Authority: RCW 48.62.061. 05-04-072, § 82-60-039, filed 2/1/05, effective 3/4/05.]

WAC 82-60-040 Risk management. Individual and joint property and liability self-insurance programs shall have a written risk management program which addresses risk finance, loss control, risk avoidance and risk transfer.

[Statutory Authority: RCW 48.62.061. 05-04-072, recodified as § 82-60-040, filed 2/1/05, effective 3/4/05. Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-040, filed 8/3/93, effective 9/3/93.]

WAC 82-60-050 Claims administration. (1)(a) All self-insurance programs shall have a written claims administration program that contains, as a minimum, claim filing procedures, internal financial control mechanisms, and claim and claim adjustment expense reports.

(b) All individual and joint health and welfare self-insurance programs and all joint property and liability self-insurance programs shall have a written claim appeal procedure that contains, as a minimum, a time limit for filing an appeal, a time limit for response, and a provision for a second level of review.

(2)(a) All self-insurance programs may contract for claims administration services with a qualified third-party administrator, provided all the requirements under subsection (1) of this section are included in the contract.

(b) Individual and joint property and liability self-insurance programs may perform claims administration services on their own behalf. Individual and joint health and welfare self-insurance programs may perform claims administration services on their own behalf, provided the state risk manager is supplied with documentation and a detailed written explanation in support of the self-insurance program's proposed claims administration activities. The documentation and proposal shall include, as a minimum, the following:

(i) The nature, type and anticipated volume of claims to be administered.

(ii) The number of employment positions established or to be established which are required to perform the self-insurance program's claim administration functions, including an organizational chart showing reporting responsibilities.

(iii) Qualifications of personnel having claim reserving and settlement authority.

(iv) A projection of expected claim administration expenses.

(3) All self-insurance programs shall have conducted by an independent qualified professional not currently performing claims administration services to the program, a review of claim reserving, adjusting and payment procedures no less than every three years. Such review shall be in writing and retained for a period not less than three years.

(4) Joint self-insurance programs shall maintain a dedicated claim account from which only claim and claim adjustment expenses can be paid.

(5) Joint self-insurance programs shall maintain written claim and claim adjustment expense reports for all claims made against the self-insurance program and, separate written reports for each individual member.

[Statutory Authority: RCW 48.62.061. 05-04-072, amended and recodified as § 82-60-050, filed 2/1/05, effective 3/4/05. Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-050, filed 8/3/93, effective 9/3/93.]

WAC 82-60-060 Financial reports. (1) Every individual and joint health and welfare self-insurance program and every joint property and liability self-insurance program authorized to transact business in the state of Washington shall record and annually report its revenue, claim and claim expense experience, and other data as required by the state risk manager. Multistate programs shall report both its Washington state revenues, claim and claim expense experience and other data required by the state risk manager and its overall income, claim and claim expense experience. Such reports

shall be submitted to the state risk manager no later than one hundred fifty days following the completion of the joint program's fiscal year.

(2) All joint self-insurance programs authorized to transact business in the state of Washington shall submit quarterly financial reports to the state risk manager. Such reports shall be submitted to the state risk manager no later than sixty days following the completion of each of the program's four quarters within its fiscal year.

[Statutory Authority: RCW 48.62.061, 05-04-072, amended and recodified as § 82-60-060, filed 2/1/05, effective 3/4/05. Statutory Authority: Chapter 48.62 RCW, 93-16-079, § 236-22-060, filed 8/3/93, effective 9/3/93.]

WAC 82-60-070 State risk manager may waive requirements. The state risk manager may waive any of the requirements of WAC 82-60-030 through 82-60-050 and 82-60-060 if, in the state risk manager's opinion:

(1) Circumstances warrant a waiver; and

(2) Waiver will not jeopardize the financial condition of the self-insurance program.

[Statutory Authority: RCW 48.62.061, 05-04-072, amended and recodified as § 82-60-070, filed 2/1/05, effective 3/4/05. Statutory Authority: Chapter 48.62 RCW, 93-16-079, § 236-22-070, filed 8/3/93, effective 9/3/93.]

WAC 82-60-080 Conflict of interest. All self-insurance programs shall meet the following standards regarding restrictions on the financial interests of the program administrators:

(1) No member of the board of directors; trustee; administrator, including a third-party administrator; or any other person having responsibility for the management or administration of a program or the investment or other handling of the program's money shall:

(a) Receive directly or indirectly or be pecuniarily interested in any fee, commission, compensation, or emolument arising out of any transaction to which the program is or is expected to be a party except for salary or other similar compensation regularly fixed and allowed for because of services regularly rendered to the program.

(b) Receive compensation as a consultant to the program while also acting as a member of the board of directors, trustee, administrator, or as an employee.

(c) Have any direct or indirect pecuniary interest in any loan or investment of the program.

(2) No consultant, third-party administrator or legal counsel to the self-insurance program shall directly or indirectly receive or be pecuniarily interested in any commission or other compensation arising out of any contract or transaction between the self-insurance program and any insurer, health care service contractor, or health care supply provider. This provision shall not preclude licensed insurance brokers or agents from receiving compensation for insurance transactions performed within the scope of their licenses, provided such compensation is disclosed to the self-insurance program's governing body.

(3) No third-party administrator shall serve as an officer or on the board of directors of a self-insurance program.

[Statutory Authority: RCW 48.62.061, 05-04-072, amended and recodified as § 82-60-080, filed 2/1/05, effective 3/4/05. Statutory Authority: Chapter 48.62 RCW, 93-16-079, § 236-22-080, filed 8/3/93, effective 9/3/93.]

WAC 82-60-100 Expense and operating cost fees. (1)

The state risk manager, with concurrence from the property and liability advisory board and the health and welfare advisory board, shall fix assessments to cover expenses and operating costs of the state risk manager's office in administering chapter 48.62 RCW. Such assessments shall be levied against each joint property and liability self-insurance program and each individual and joint health and welfare benefit self-insurance program regulated by chapter 48.62 RCW. Examination fees shall be based upon actual time and expenses incurred for the review and investigation of every joint property and liability self-insurance program and every individual and joint health and welfare benefit self-insurance program by the state risk manager or designee.

(2) The state risk manager, with concurrence from the two advisory boards, shall determine the assessment rate on a fiscal year basis and the review and investigation fees on a fiscal year basis.

(3) The review and investigation fees shall be paid by the self-insurance program to the state of Washington, office of financial management within thirty days of the date of invoice. Any self-insurance program failing to remit its fee when due is subject to denial of permission to operate or to a cease and desist order until the fee is paid.

(4) A self-insurance program that has voluntarily or involuntarily terminated shall continue to pay an administrative cost assessment and review and investigation fees until such time as all liabilities for unpaid claims and claim adjustment expenses and all administrative responsibilities of the self-insurance program have been satisfied.

(5) The state risk manager shall assess each prospective joint self-insurance program, and each prospective individual health and welfare benefit self-insurance program, an initial investigation fee at a rate determined annually by the state risk manager, with the concurrence of the advisory boards. Such fee shall be sufficient to cover the costs for the initial review and approval of that self-insurance program.

[Statutory Authority: RCW 48.62.061, 05-04-072, amended and recodified as § 82-60-100, filed 2/1/05, effective 3/4/05. Statutory Authority: Chapter 48.62 RCW, 93-16-079, § 236-22-100, filed 8/3/93, effective 9/3/93; 92-12-092, § 236-22-100, filed 6/3/92, effective 7/1/92.]

WAC 82-60-200 Appeals of fees. (1) A self-insurance program which disagrees with a fee for services issued to it by the state risk manager shall notify the state risk manager in writing within thirty days after receipt of the invoice. The writing shall include the self-insurance program's reasons for challenging the fee and any other information the self-insurance program deems pertinent.

(2) The state risk manager shall review any fee appealed by a self-insurance program, together with the reasons for the appeal. Within fourteen days of receipt of notification from the self-insurance program, the state risk manager shall respond in writing to the self-insurance program, either reaffirming the fee or modifying it, and stating the reasons for the decision.

[Statutory Authority: RCW 48.62.061, 05-04-072, amended and recodified as § 82-60-200, filed 2/1/05, effective 3/4/05. Statutory Authority: Chapter 48.62 RCW, 93-16-079, § 236-22-200, filed 8/3/93, effective 9/3/93.]

WAC 82-60-210 Appeals of cease and desist orders.

Within ten days after a joint self-insurance program covering property or liability risks, or an individual or joint self-insurance program covering health and welfare benefits has been served with a cease and desist order under RCW 48.62.-091(3), the entity may request an administrative hearing. The hearing provided may be held in such a place as is designated by the state risk manager and shall be conducted in accordance with chapter 34.05 RCW and chapter 10-08 WAC.

[Statutory Authority: RCW 48.62.061, 05-04-072, amended and recodified as § 82-60-210, filed 2/1/05, effective 3/4/05. Statutory Authority: Chapter 48.62 RCW, 93-16-079, § 236-22-210, filed 8/3/93, effective 9/3/93.]

Title 98 WAC

LICENSING, DEPARTMENT OF (CEMETERY BOARD)

Chapters

98-08 Practice and procedure.

Chapter 98-08 WAC**PRACTICE AND PROCEDURE****WAC**

98-08-005	Brief adjudicative proceedings—When they can be used.
98-08-015	Objections to brief adjudicative proceedings and conversion to formal adjudicative hearings.

WAC 98-08-005 Brief adjudicative proceedings—

When they can be used. (1) The board adopts RCW 34.05.-482 through 34.05.494 for the administration of brief adjudicative proceedings conducted at the discretion of the board. Brief adjudicative proceedings can be used in place of formal adjudicative hearings whenever the board issues a statement of charges, notice of intent to issue a cease and desist order, or temporary cease and desist order alleging that an applicant or licensee's conduct, act(s), or condition(s) constitute unlicensed practice or unprofessional conduct as that term is defined under chapter 18.235 RCW, the Uniform Regulation of Business and Professions Act. Brief adjudicative proceedings can also be used whenever the statement of charges, notice of intent to issue a cease and desist order, or temporary cease and desist order alleges violations of any statute or rule that specifically governs disciplinary actions within a profession for which the applicant seeks a license or from which the licensee holds a license.

(2) Brief adjudicative proceedings may be used to determine the following issues, including, but not limited to:

(a) Whether an applicant has satisfied terms for reinstatement of a license after a period of license restriction, suspension, or revocation;

(b) Whether an applicant or licensee has satisfied financial security requirements by providing adequate proof of surety bonds or other proof of financial security, as required by law;

(c) Whether a sanction proposed by the department is appropriate based on the stipulated facts;

(d) Whether an applicant meets minimum requirements for an initial or renewal application;

(e) Whether an applicant or licensee failed to cooperate in an investigation by the department;

(f) Whether an applicant or licensee was convicted of a crime that should disqualify the applicant or licensee from holding the specific license sought or held;

(g) Whether an applicant or licensee has defaulted on educational loans;

(h) Whether an applicant or licensee has violated the terms of a final order issued by the director or director's designee;

(i) Whether a licensee has committed recordkeeping violations;

(j) Whether a licensee has committed trust account violations;

(k) Whether an applicant or licensee has engaged in false, deceptive, or misleading advertising; or

(l) Whether a person has engaged in unlicensed practice.

(3) In addition to the situations enumerated in subsection (2) of this section, the board may conduct brief adjudicative proceedings instead of formal adjudicative hearings whenever the parties have stipulated to the facts and the only issues presented are issues of law, or whenever issues of fact exist but witness testimony is unnecessary to prove or disprove the relevant facts.

[Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW, 05-23-149, § 98-08-005, filed 11/22/05, effective 12/23/05.]

WAC 98-08-015 Objections to brief adjudicative proceedings and conversion to formal adjudicative hearings.

(1) At least five days before the scheduled brief adjudicative proceeding, any party, including the board, may file a written objection to resolution of a matter by a brief adjudicative proceeding and may request that a matter be converted to a formal adjudicative hearing. Upon receiving a timely written objection, the presiding officer shall determine whether the matter should be converted. Regardless of whether any party files a timely objection, the presiding officer may convert any brief adjudicative proceeding to a formal adjudicative hearing whenever it appears that a brief adjudicative proceeding is insufficient to determine the issues pending before the board.

(2) In determining whether to convert a proceeding, the presiding officer may consider the following factors:

(a) Whether witness testimony will aid the presiding officer in resolving contested issues of fact;

(b) Whether the legal or factual issues are sufficiently complex to warrant a formal adjudicative proceeding, including whether there are multiple issues of fact or law;

(c) Whether a brief adjudicative proceeding will establish an adequate record for further agency or judicial review;

(d) Whether the legal issues involved in the proceeding present questions of legal significance or are being raised for the first time before the agency;

(e) Whether conversion of the proceeding will cause unnecessary delay in resolving the issues; and

(f) Any other factors that the presiding officer deems relevant in reaching a determination.

[Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW. 05-23-149, § 98-08-015, filed 11/22/05, effective 12/23/05.]

Title 106 WAC

CENTRAL WASHINGTON UNIVERSITY

Chapters

106-72

Equal opportunity/affirmative action.

Chapter 106-72 WAC

EQUAL OPPORTUNITY/AFFIRMATIVE ACTION

WAC

106-72-005	Equal opportunity/affirmative action in employment.
106-72-015	Annual workforce analysis.
106-72-025	Equal opportunity for students.
106-72-130	Procedures, rules, and regulations—Contracts and contractors.
106-72-400	Equal opportunity grievance procedures.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

106-72-150	Procedures, rules, and regulations—Student employment. [Statutory Authority: RCW 28B.19.050 and 28B.40.120. 78-08-011 (Order 39), § 106-72-150, filed 7/11/78; Order 3274, § 106-72-150, filed 12/6/71.] Repealed by 05-05-057, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 28B.10.528 and 28B.35.120(12).
106-72-200	Procedures, rules, and regulations—Student services. [Statutory Authority: RCW 28B.19.050 and 28B.35.120(12). 94-20-062 (Order CWU AO 73), § 106-72-200, filed 9/30/94, effective 10/31/94. Statutory Authority: RCW 28B.19.050 and 28B.40.120. 78-08-011 (Order 39), § 106-72-200, filed 7/11/78; Order 3274, § 106-72-200, filed 12/6/71.] Repealed by 05-05-057, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 28B.10.528 and 28B.35.120(12).
106-72-220	Procedures, rules, and regulations—Academic program. [Statutory Authority: RCW 28B.19.050 and 28B.40.120. 78-08-011 (Order 39), § 106-72-220, filed 7/11/78; Order 3274, § 106-72-220, filed 12/6/71.] Repealed by 05-05-057, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 28B.10.528 and 28B.35.120(12).
106-72-410	Informal grievance procedure. [Statutory Authority: RCW 28B.10.528 and 28B.35.120(12). 94-20-062 (Order CWU AO 73), § 106-72-410, filed 9/30/94, effective 10/31/94. Statutory Authority: RCW 28B.35.120(12). 92-02-006, § 106-72-410, filed 12/20/91, effective 1/20/92. Statutory Authority: RCW 28B.19.050 and 28B.35.120(11). 86-23-007 (Order 59), § 106-72-410, filed 11/7/86.] Repealed by 05-05-057, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 28B.10.528 and 28B.35.120(12).
106-72-420	Formal grievance procedure. [Statutory Authority: RCW 28B.19.050 and 28B.35.120(11). 86-23-007 (Order 59), § 106-72-420, filed 11/7/86.] Repealed by 05-05-057, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 28B.10.528 and 28B.35.120(12).
106-72-430	Formal grievance procedure—Acknowledgement of written complaint. [Statutory Authority: RCW 28B.19.050 and 28B.35.120(11). 86-23-007 (Order 59), § 106-72-430, filed 11/7/86.] Repealed by 05-05-057, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 28B.10.528 and 28B.35.120(12).
106-72-440	Formal grievance procedure—Grievance committee. [Statutory Authority: RCW 28B.10.528 and

106-72-450	Formal grievance procedure—Distribution of copies of complaint. [Statutory Authority: RCW 28B.19.050 and 28B.35.120(11). 86-23-007 (Order 59), § 106-72-450, filed 11/7/86.] Repealed by 05-05-057, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 28B.10.528 and 28B.35.120(12).
106-72-460	Formal grievance procedure—Appointment of investigating officer. [Statutory Authority: RCW 28B.19.050 and 28B.35.120(11). 86-23-007 (Order 59), § 106-72-460, filed 11/7/86.] Repealed by 05-05-057, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 28B.10.528 and 28B.35.120(12).
106-72-470	Formal grievance procedure—Responsibilities of investigating officer. [Statutory Authority: RCW 28B.19.050 and 28B.35.120(11). 86-23-007 (Order 59), § 106-72-470, filed 11/7/86.] Repealed by 05-05-057, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 28B.10.528 and 28B.35.120(12).
106-72-480	Formal grievance procedure—Separate meetings with complainant and respondent/filing investigative report. [Statutory Authority: RCW 28B.19.050 and 28B.35.120(11). 86-23-007 (Order 59), § 106-72-480, filed 11/7/86.] Repealed by 05-05-057, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 28B.10.528 and 28B.35.120(12).
106-72-490	Formal grievance procedure—Committee recommendation. [Statutory Authority: RCW 28B.35.120(12). 92-02-006, § 106-72-490, filed 12/20/91, effective 1/20/92. Statutory Authority: RCW 28B.19.050 and 28B.35.120(11). 86-23-007 (Order 59), § 106-72-490, filed 11/7/86.] Repealed by 05-05-057, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 28B.10.528 and 28B.35.120(12).
106-72-500	Formal grievance procedure—Written committee report. [Statutory Authority: RCW 28B.19.050 and 28B.35.120(11). 86-23-007 (Order 59), § 106-72-500, filed 11/7/86.] Repealed by 05-05-057, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 28B.10.528 and 28B.35.120(12).
106-72-510	Formal grievance procedure—Proceeding notice. [Statutory Authority: RCW 28B.10.528 and 28B.35.120(12). 94-20-062 (Order CWU AO 73), § 106-72-510, filed 9/30/94, effective 10/31/94. Statutory Authority: RCW 28B.35.120(12). 92-02-006, § 106-72-510, filed 12/20/91, effective 1/20/92. Statutory Authority: RCW 28B.19.050 and 28B.35.120(11). 86-23-007 (Order 59), § 106-72-510, filed 11/7/86.] Repealed by 05-05-057, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 28B.10.528 and 28B.35.120(12).
106-72-520	Adjudicative proceeding—Challenges. [Statutory Authority: RCW 28B.35.120(12). 92-02-006, § 106-72-520, filed 12/20/91, effective 1/20/92. Statutory Authority: RCW 28B.19.050 and 28B.35.120(11). 86-23-007 (Order 59), § 106-72-520, filed 11/7/86.] Repealed by 05-05-057, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 28B.10.528 and 28B.35.120(12).
106-72-530	Adjudicative proceeding—Expeditious conduct. [Statutory Authority: RCW 28B.35.120(12). 92-02-006, § 106-72-530, filed 12/20/91, effective 1/20/92. Statutory Authority: RCW 28B.19.050 and 28B.35.120(11). 86-23-007 (Order 59), § 106-72-530, filed 11/7/86.] Repealed by 05-05-057, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 28B.10.528 and 28B.35.120(12).
106-72-540	Adjudicative proceeding—Availability of necessary parties. [Statutory Authority: RCW 28B.10.528 and 28B.35.120(12). 94-20-062 (Order CWU AO 73), § 106-72-540, filed 9/30/94, effective 10/31/94. Statutory Authority: RCW 28B.35.120(12). 92-02-006, § 106-72-540, filed 12/20/91, effective 1/20/92. Statutory Authority: RCW 28B.19.050 and 28B.35.120(11). 86-23-007 (Order 59), § 106-72-540, filed 11/7/86.] Repealed by 05-05-057, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 28B.10.528 and 28B.35.120(12).
106-72-550	Adjudicative proceeding—Counsel. [Statutory Authority: RCW 28B.35.120(12). 92-02-006, § 106-72-550, filed 12/20/91, effective 1/20/92. Statutory Authority:

- RCW 28B.19.050 and 28B.35.120(11). 86-23-007 (Order 59), § 106-72-550, filed 11/7/86.] Repealed by 05-05-057, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 28B.10.528 and 28B.35.120(12).
- 106-72-560 Adjudicative proceeding—Confidentiality. [Statutory Authority: RCW 28B.35.120(12). 92-02-006, § 106-72-560, filed 12/20/91, effective 1/20/92. Statutory Authority: RCW 28B.19.050 and 28B.35.120(11). 86-23-007 (Order 59), § 106-72-560, filed 11/7/86.] Repealed by 05-05-057, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 28B.10.528 and 28B.35.120(12).
- 106-72-570 Adjudicative proceeding—Responsibilities of parties. [Statutory Authority: RCW 28B.35.120(12). 92-02-006, § 106-72-570, filed 12/20/91, effective 1/20/92. Statutory Authority: RCW 28B.19.050 and 28B.35.120(11). 86-23-007 (Order 59), § 106-72-570, filed 11/7/86.] Repealed by 05-05-057, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 28B.10.528 and 28B.35.120(12).
- 106-72-580 Adjudicative proceeding—Rights of parties. [Statutory Authority: RCW 28B.10.528 and 28B.35.120(12). 94-20-062 (Order CWU AO 73), § 106-72-580, filed 9/30/94, effective 10/31/94. Statutory Authority: RCW 28B.35.120(12). 92-02-006, § 106-72-580, filed 12/20/91, effective 1/20/92. Statutory Authority: RCW 28B.19.050 and 28B.35.120(11). 86-23-007 (Order 59), § 106-72-580, filed 11/7/86.] Repealed by 05-05-057, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 28B.10.528 and 28B.35.120(12).
- 106-72-590 Adjudicative proceeding—Powers of proceeding panel. [Statutory Authority: RCW 28B.35.120(12). 92-02-006, § 106-72-590, filed 12/20/91, effective 1/20/92. Statutory Authority: RCW 28B.19.050 and 28B.35.120(11). 86-23-007 (Order 59), § 106-72-590, filed 11/7/86.] Repealed by 05-05-057, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 28B.10.528 and 28B.35.120(12).
- 106-72-600 Findings of grievance committee. [Statutory Authority: RCW 28B.10.528 and 28B.35.120(12). 94-20-062 (Order CWU AO 73), § 106-72-600, filed 9/30/94, effective 10/31/94. Statutory Authority: RCW 28B.35.120(12). 92-02-006, § 106-72-600, filed 12/20/91, effective 1/20/92. Statutory Authority: RCW 28B.19.050 and 28B.35.120(11). 86-23-007 (Order 59), § 106-72-600, filed 11/7/86.] Repealed by 05-05-057, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 28B.10.528 and 28B.35.120(12).
- 106-72-610 Appeal procedure. [Statutory Authority: RCW 28B.10.528 and 28B.35.120(12). 94-20-062 (Order CWU AO 73), § 106-72-610, filed 9/30/94, effective 10/31/94. Statutory Authority: RCW 28B.19.050 and 28B.35.120(11). 86-23-007 (Order 59), § 106-72-610, filed 11/7/86.] Repealed by 05-05-057, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 28B.10.528 and 28B.35.120(12).

WAC 106-72-005 Equal opportunity/affirmative action in employment. Central Washington University is an equal opportunity employer. The university will:

(1) Recruit, hire, train, and promote persons in all job titles, without regard to race, color, creed, religion, national origin, sex, sexual orientation, gender identity and expression, age, marital status, disability, or status as a disabled or Vietnam-era veteran.

(2) Ensure that all personnel actions such as compensation, benefits, transfers, terminations, layoffs, return from layoff, reductions in force (RIF), university-sponsored training, education, tuition assistance, and social and recreation programs, will be administered without regard to race, color, creed, religion, national origin, sex, sexual orientation, gender identity and expression, age, marital status, disability, or status as a disabled or Vietnam-era veteran.

Central Washington University is committed to affirmative action for Asians, Blacks, Hispanics, Native Americans, women, persons forty years of age or older, persons of disability, disabled veterans and Vietnam-era veterans. This

commitment is expressed through the university's efforts to eliminate barriers to equal employment opportunity and improve employment opportunities encountered by these protected groups.

[Statutory Authority: RCW 28B.10.528 and 28B.35.120(12). 05-05-057, § 106-72-005, filed 2/14/05, effective 3/17/05; 96-02-013 § 106-72-005, filed 12/21/95, effective 1/21/96; 94-20-062 (Order CWU AO 73), § 106-72-005, filed 9/30/94, effective 10/31/94. Statutory Authority: RCW 28B.35.120(12). 92-02-006, § 106-72-005, filed 12/20/91, effective 1/20/92. Statutory Authority: RCW 28B.19.050 and 28B.35.120(11). 86-23-007 (Order 59), § 106-72-005, filed 11/7/86.]

WAC 106-72-015 Annual workforce analysis. (1) The affirmative action office will conduct an annual workforce analysis for each academic department and a separate utilization analysis for protected group members (i.e., minorities, women, Vietnam-era and disabled veterans, persons of disability, and persons age forty and above) in each major job group. The university will set forth specific goals and timetables where underutilization is identified. Underutilization is defined as having fewer protected group members in a particular job than would reasonably be expected by their availability. (Higher Education Guidelines, Executive Order 11246.)

(2) The university and each organizational unit will make every possible effort to recruit and employ qualified minorities and women to fill vacancies in order to achieve its goals, searching for personnel in areas and channels previously unexplored to the extent necessary to overcome underutilization. Before each vacancy can be officially filled, a designee of the office for equal opportunity or human resources must certify that the appropriate recruitment and hiring procedures have been followed.

[Statutory Authority: RCW 28B.10.528 and 28B.35.120(12). 05-05-057, § 106-72-015, filed 2/14/05, effective 3/17/05; 94-20-062 (Order CWU AO 73), § 106-72-015, filed 9/30/94, effective 10/31/94. Statutory Authority: RCW 28B.35.120(12). 92-02-006, § 106-72-015, filed 12/20/91, effective 1/20/92. Statutory Authority: RCW 28B.19.050 and 28B.35.120(11). 86-23-007 (Order 59), § 106-72-015, filed 11/7/86.]

WAC 106-72-025 Equal opportunity for students. Central Washington University will provide students equal access to all programs and services on the basis of merit without regard to race, color, creed, religion, national origin, sex, sexual orientation, gender identity and expression, age, marital status, disability, or status as a disabled or Vietnam-era veteran.

No person will be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity sponsored by the university including, but not limited to, admissions, academic programs, student employment, counseling and guidance services, financial aid, recreational activities, and intercollegiate athletics.

Programs may be developed by the university, however, for special student populations as affirmative action measures to overcome the effects of past discrimination.

No member of the university community shall treat students differently because of their race, color, creed, religion, national origin, sex, sexual orientation, gender identity and expression, age, marital status, disability (except to provide reasonable accommodation), or status as a disabled or Vietnam-era veteran. The university has established mechanisms to address complaints to discriminatory treatment, including

harassing behaviors (e.g., physical, verbal, graphic, or written) which might lead to the creation of a hostile environment.

[Statutory Authority: RCW 28B.10.528 and 28B.35.120(12). 05-05-057, § 106-72-025, filed 2/14/05, effective 3/17/05; 96-02-013 § 106-72-025, filed 12/21/95, effective 1/21/96; 94-20-062 (Order CWU AO 73), § 106-72-025, filed 9/30/94, effective 10/31/94. Statutory Authority: RCW 28B.35.120(12). 92-02-006, § 106-72-025, filed 12/20/91, effective 1/20/92. Statutory Authority: RCW 28B.19.050 and 28B.35.120(11). 86-23-007 (Order 59), § 106-72-025, filed 11/7/86.]

WAC 106-72-130 Procedures, rules, and regulations—Contracts and contractors. The associate vice-president for business and financial affairs, through the director of facilities management and the director of business services and contracts shall comply with federal, state, and local non-discrimination policies and procedures when soliciting bids on all contracts for construction, goods, and services. Bids will be solicited by women and minority group vendors and contractors. Agencies engaged in business with the university will be notified in writing of the university's affirmative action program and asked to provide a statement of nondiscrimination.

[Statutory Authority: RCW 28B.10.528 and 28B.35.120(12). 05-05-057, § 106-72-130, filed 2/14/05, effective 3/17/05. Statutory Authority: RCW 28B.35.120(12). 92-02-006, § 106-72-130, filed 12/20/91, effective 1/20/92. Statutory Authority: RCW 28B.19.050 and 28B.40.120. 78-08-011 (Order 39), § 106-72-130, filed 7/11/78; Order 3274, § 106-72-130, filed 12/6/71.]

WAC 106-72-400 Equal opportunity grievance procedures. (1) A person who believes he or she has been discriminated against by Central Washington University because of race, color, creed, religion, national origin, sex, sexual orientation, gender identity and expression, age, marital status, disability, or status as a disabled or Vietnam-era veteran is encouraged to utilize the grievance procedures provided by Central Washington University. There are informal and formal means of addressing complaints through the office for equal opportunity. Both informal and formal grievance procedures are available on-line at http://www.cwu.edu/~oeo/complaint_procedures.html. These procedures should be used as soon as possible after the alleged act of discrimination. No individual shall be penalized or retaliated against in any way by the university community for his or her participation in these complaint procedures.

(2) All persons who seek the advice and assistance of the equal opportunity office shall have explained to them the informal and the formal grievance procedures available to them through the university as well as the existence of external complaint procedures available through state and federal agencies. They shall also receive a copy of the equal opportunity grievance procedure.

[Statutory Authority: RCW 28B.10.528 and 28B.35.120(12). 05-05-057, § 106-72-400, filed 2/14/05, effective 3/17/05; 94-20-062 (Order CWU AO 73), § 106-72-400, filed 9/30/94, effective 10/31/94. Statutory Authority: RCW 28B.35.120(12). 92-02-006, § 106-72-400, filed 12/20/91, effective 1/20/92. Statutory Authority: RCW 28B.19.050 and 28B.35.120(11). 86-23-007 (Order 59), § 106-72-400, filed 11/7/86.]

Title 131 WAC

COMMUNITY AND TECHNICAL COLLEGES, BOARD FOR

Chapters

131-16

131-28

Faculty and staff personnel.

Tuition and fee charges.

Chapter 131-16 WAC

FACULTY AND STAFF PERSONNEL

WAC

131-16-010	Designation of community and technical college system retirement plan.
131-16-011	Definitions.
131-16-015	Retirement benefit goal established.
131-16-021	Employees eligible to participate in the retirement plan.
131-16-031	Participation in the plan.
131-16-040	Disability retirement provisions for plan participants.
131-16-045	Transfers to and from other plans.
131-16-055	Options for self-directed investment of retirement plan contributions and accumulations.
131-16-056	Hardship withdrawals.
131-16-060	Cashability.
131-16-061	Supplemental retirement benefits.
131-16-062	Benefit options after termination of employment.
131-16-065	Optional retirement transition benefit.
131-16-066	Single sum death benefit to spouse beneficiaries.

WAC 131-16-010 Designation of community and technical college system retirement plan. There is hereby established for the eligible employees of the community and technical colleges of the state of Washington and the state board, a retirement plan which shall provide such employees with a state board sponsored retirement plan through the Teachers' Insurance Annuity Association (TIAA) and the College Retirement Equities Fund (CREF), hereafter called TIAA-CREF, subject to the provisions of WAC 131-16-011 through 131-16-066 and the plan document. On and after January 1, 2006, this retirement plan is intended to comply with the requirements of a qualified plan under Section 401(a) of the Internal Revenue Code of 1986, as amended and the provisions of the plan document approved by the state board on December 1, 2005.

[Statutory Authority: RCW 28B.10.400. 05-24-051, § 131-16-010, filed 12/1/05, effective 1/1/06. Statutory Authority: RCW 28B.10.400 and chapter 28B.50 RCW. 98-14-033, § 131-16-010, filed 6/23/98, effective 7/24/98. Statutory Authority: Chapter 28B.50 RCW. 97-10-069, § 131-16-010, filed 5/5/97, effective 7/8/97. Statutory Authority: RCW 28B.10.400. 91-13-048 (Resolution No. 91-20, Order 129), § 131-16-010, filed 6/14/91, effective 7/15/91; Order 28, § 131-16-010, filed 7/1/74; Order 4, § 131-16-010, filed 10/22/69.]

WAC 131-16-011 Definitions. For the purpose of WAC 131-16-010 through 131-16-066, the following definitions shall apply:

(1) "Participant" means any employee who is eligible to participate in the plan and who, as a condition of employment, on and after January 1, 1997, shall participate in the plan upon initial eligibility.

(2) "Supplemental retirement benefit" means payments, as calculated in accordance with WAC 131-16-061, made by

the state board to an eligible retired participant or designated beneficiary whose retirement benefits provided by the plan do not attain the level of the retirement benefit goal established by WAC 131-16-015.

(3) "Year of full-time service" means retirement credit based on full-time employment or the equivalent thereof based on part-time employment in an eligible position for a period of not less than five months in any fiscal year during which contributions to TIAA-CREF were made by both the participant and a Washington public higher education institution or the state board or any year or fractional year of prior service in a Washington public retirement system while employed at a Washington public higher education institution: Provided, That the participant will receive a pension benefit from such other retirement system and that not more than one year of full-time service will be credited for service in any one fiscal year.

(4) "Fiscal year" means the period beginning on July 1 of any calendar year and ending on June 30 of the succeeding calendar year.

(5) "Average annual salary" means the amount derived when the salary received during the two consecutive highest salaried fiscal years of full-time service for which contributions to TIAA-CREF were made by both the participant and a Washington public higher education institution is divided by two.

(6) "Plan retirement benefit" means the amount of annual retirement income derived from a participant's accumulated balances including dividends at the time of retirement: Provided, That solely for the purpose of calculating a potential supplemental retirement benefit, such amount shall be adjusted to meet the assumptions set forth in WAC 131-16-061(2).

(7) "Salary" means all remuneration received by the participant from the employing college district or the state board, including summer quarter compensation, extra duty pay, leave stipends, and grants made by or through the college district or state board; but not including any severance pay, early retirement incentive payment, remuneration for unused sick or personal leave, or remuneration for unused annual or vacation leave in excess of the amount payable for thirty days or two hundred forty hours of service.

(8) "Designated beneficiary" means the surviving spouse of the retiree or, with the consent of such spouse, if any, such other person or persons as shall have an insurable interest in the retiree's life and shall have been nominated by written designation duly executed and filed with the retiree's institution of higher education or the state board.

(9) "State board" means the state board for community and technical colleges as created in RCW 28B.50.050.

(10) "Appointing authority" means a college district board of trustees or the state board or the designees of such boards.

(11) "Plan" means the retirement plan sponsored by the state board and funded by TIAA-CREF.

[Statutory Authority: RCW 28B.10.400. 05-24-051, § 131-16-011, filed 12/1/05, effective 1/1/06. Statutory Authority: RCW 28B.10.400 and chapter 28B.50 RCW. 98-14-033, § 131-16-011, filed 6/23/98, effective 7/24/98. Statutory Authority: Chapter 28B.50 RCW. 97-10-069, § 131-16-011, filed 5/5/97, effective 7/8/97. Statutory Authority: RCW 28B.10.400. 91-13-048 (Resolution No. 91-20, Order 129), § 131-16-011, filed 6/14/91, effective 7/15/91. Statutory Authority: RCW 28B.10.400(3). 86-22-027 (Order 111,

Resolution No. 86-43), § 131-16-011, filed 10/30/86. Statutory Authority: RCW 28B.10.400. 83-20-042 (Order 95, Resolution No. 83-25), § 131-16-011, filed 9/28/83. Statutory Authority: RCW 28B.10.400(3). 82-11-014 (Order 91, Resolution No. 82-6), § 131-16-011, filed 5/10/82. Statutory Authority: RCW 28B.10.400. 79-12-069 (Order 80, Resolution No. 79-44), § 131-16-011, filed 11/30/79; Order 28, § 131-16-011, filed 7/1/74.]

WAC 131-16-015 Retirement benefit goal established. Subject to the provisions of WAC 131-16-061, the retirement benefit goal for participants in the plan is to provide participants at age sixty-five having twenty-five years of full-time service a minimum annual retirement income, exclusive of Federal Old Age Survivors Insurance benefits, equivalent to fifty percent of their average annual salary.

[Statutory Authority: RCW 28B.10.400. 05-24-051, § 131-16-015, filed 12/1/05, effective 1/1/06; 91-13-048 (Resolution No. 91-20, Order 129), § 131-16-015, filed 6/14/91, effective 7/15/91. Statutory Authority: RCW 28B.10.400(3). 82-11-014 (Order 91, Resolution No. 82-6), § 131-16-015, filed 5/10/82; Order 28, § 131-16-015, filed 7/1/74.]

WAC 131-16-021 Employees eligible to participate in the retirement plan. (1) Eligibility to participate in the plan is limited to persons who hold appointments to college district or state board staff positions as full-time or part-time faculty members or administrators exempt from the provisions of chapter 28B.16 RCW and, effective July 1, 1999, are assigned a cumulative total of at least fifty percent of full-time workload as defined by the collective bargaining agreement and/or the appointing authority at one or more college districts or the state board for at least two consecutive college quarters. (Part-time faculty workload is calculated in accordance with RCW 28B.50.489 and 28B.50.4891.)

(2) Participation in the plan is also permitted for current and former employees of college districts or the state board who are on leave of absence or who have terminated employment by reason of permanent disability and who are receiving a salary continuation insurance benefit through a plan made available by the state of Washington: Provided, That such noncontributory participation shall not be creditable toward the number of years of full-time service utilized in calculating eligibility for supplemental retirement benefits pursuant to WAC 131-16-061.

(3) Optional participation in tax-deferred annuities other than this qualified plan as offered by individual colleges is permitted consistent with the Internal Revenue Code: Provided, That the provisions of WAC 131-16-015, 131-16-050, and 131-16-061 shall not apply in such cases. Optional tax-deferred annuities are provided through a salary reduction agreement between the employee and employer. There is no employer contribution for optional tax-deferred annuities.

(4) An employee who moves from an ineligible to an eligible position for the same appointing authority may become a participant by so electing in writing within six months following such move.

(5) A participant who moves from an eligible position to an ineligible position for the same appointing authority may continue to be a participant by so electing within six months following such move.

(6) Participants shall continue participation regardless of the proportion of full-time duties assigned, except as otherwise provided in this section, as long as continuously employed within the community and technical college sys-

tem. The community and technical college or state board employer shall notify, in writing, all newly hired employees of their potential right to participate. A participating employee, who changes employers without a break in service, shall have the responsibility to notify in writing the new college or state board employer of his or her eligibility. In no case will there be a requirement for retroactive contributions if an employee fails to inform his or her college or state board employer about eligibility previously established with another community and technical college system employer. For the purposes of this section, spring and fall quarters shall be considered as consecutive periods of employment.

(7) As a condition of employment, all employees who become eligible on and after January 1, 1997, shall participate in this plan upon initial eligibility. Notwithstanding this provision, all eligible new employees who at the time of employment are members of the Washington state teachers retirement system or the Washington public employees retirement system may participate as provided in WAC 131-16-031.

[Statutory Authority: RCW 28B.10.400. 05-24-051, § 131-16-021, filed 12/1/05, effective 1/1/06. Statutory Authority: Chapter 28B.50 RCW. 00-14-017, § 131-16-021, filed 6/28/00, effective 7/29/00; 99-22-052, § 131-16-021, filed 10/29/99, effective 11/29/99; 99-19-100, § 131-16-021, filed 9/20/99, effective 10/21/99. Statutory Authority: RCW 28B.10.400 and chapter 28B.50 RCW. 98-14-033, § 131-16-021, filed 6/23/98, effective 7/24/98. Statutory Authority: Chapter 28B.50 RCW. 97-10-069, § 131-16-021, filed 5/5/97, effective 7/8/97. Statutory Authority: RCW 28B.10.400. 91-13-048 (Resolution No. 91-20, Order 129), § 131-16-021, filed 6/14/91, effective 7/15/91.]

WAC 131-16-031 Participation in the plan. (1)

Except as provided in subsections (2) and (3) of this section, participation in the plan is required of all otherwise eligible new employees: Provided, That any such new employee, who at the time of employment is a member of the Washington state teachers retirement system or the Washington public employees retirement system, and whose college or state board employment meets the requirements of an "eligible position" as defined by such plan, may irrevocably elect to retain such membership or, if not vested in that system, retain membership until vesting occurs and then irrevocably elect to participate in the plan.

(2) Employees who establish plan eligibility in accordance with WAC 131-16-021 and who, through concurrent employment with another employer, are active Washington public employee retirement system (PERS) members are required to so advise the college or state board employer and shall be given the following options:

(a) To participate in the state board's retirement plan in accordance with chapter 131-16 WAC, forgoing active PERS membership (contributions and service credit) with their other employer; or

(b) To continue active participation in PERS based upon their employment with the other public employer; forgoing participation in the state board's retirement plan.

Failure to make an election within thirty days of notification results in the employee being placed in the plan. The college or state board employer is required to advise the department of retirement systems (DRS) of a PERS member's participation in the plan, whether through election or default. It shall be the employee's responsibility to notify the other

employer if he or she elects to participate in the plan. The employee will notify his or her college or state board employer should the employee cease to be an active PERS member. This irrevocable election remains in effect as long as the employee is actively participating in a PERS plan and is required because RCW 41.40.023(4) prohibits PERS members from simultaneously participating in two state retirement plans.

(3) Any current active participant of the plan who becomes an active member of PERS based on employment with another PERS employer is required to notify his or her college or state board employer. The employee will be provided the options listed in subsection (2) of this section and the college or state board employer will follow through accordingly.

[Statutory Authority: RCW 28B.10.400. 05-24-051, § 131-16-031, filed 12/1/05, effective 1/1/06. Statutory Authority: Chapter 28B.50 RCW. 00-14-017, § 131-16-031, filed 6/28/00, effective 7/29/00. Statutory Authority: RCW 28B.10.400 and chapter 28B.50 RCW. 98-14-033, § 131-16-031, filed 6/23/98, effective 7/24/98. Statutory Authority: RCW 28B.10.400. 91-13-048 (Resolution No. 91-20, Order 129), § 131-16-031, filed 6/14/91, effective 7/15/91.]

WAC 131-16-040 Disability retirement provisions for plan participants.

The board of trustees of any college district or the state board may approve the retirement of any participant for reasons of health or permanent disability either upon the request of the appointing authority or the participant: Provided, That reasonable consideration is first given to the written recommendations of the employee's personal physician or, if requested by either the employee or the appointing authority, a review of such recommendations by another physician appointed by mutual agreement for that purpose.

[Statutory Authority: RCW 28B.10.400. 05-24-051, § 131-16-040, filed 12/1/05, effective 1/1/06; 91-13-048 (Resolution No. 91-20, Order 129), § 131-16-040, filed 6/14/91, effective 7/15/91; 83-20-042 (Order 95, Resolution No. 83-25), § 131-16-040, filed 9/28/83; 79-12-069 (Order 80, Resolution No. 79-44), § 131-16-040, filed 11/30/79; Order 28, § 131-16-040, filed 7/1/74; Order 4, § 131-16-040, filed 10/22/69.]

WAC 131-16-045 Transfers to and from other plans.

(1) A participant employed in a Washington state community or technical college or the state board for community and technical colleges may directly transfer into his or her plan account any balances from other employers' retirement plans in accordance with Internal Revenue Code and the plan document: Provided, That such other employers' plans permit transfers out of their plans.

(2) A participant who leaves the employment of all Washington state community and technical colleges and the state board for community and technical colleges, may choose to transfer his or her existing plan account balances, subject to the rules established by TIAA-CREF for transfers, to any other employer's retirement plan in accordance with Internal Revenue Code and the plan document: Provided, That such other employer's plans will accept the transferred balances.

[Statutory Authority: RCW 28B.10.400. 05-24-051, § 131-16-045, filed 12/1/05, effective 1/1/06. Statutory Authority: RCW 28B.10.400 and chapter 28B.50 RCW. 98-14-033, § 131-16-045, filed 6/23/98, effective 7/24/98. Statutory Authority: Chapter 28B.50 RCW. 93-22-008, § 131-16-045, filed 10/21/93, effective 11/21/93.]

WAC 131-16-055 Options for self-directed investment of retirement plan contributions and accumulations. While actively employed, participants may allocate current premiums or transfer plan accumulated balances to any of the investment options approved by the state board, subject to procedures established by TIAA-CREF.

[Statutory Authority: RCW 28B.10.400. 05-24-051, § 131-16-055, filed 12/1/05, effective 1/1/06. Statutory Authority: RCW 28B.10.400 and chapter 28B.50 RCW. 98-14-033, § 131-16-055, filed 6/23/98, effective 7/24/98. Statutory Authority: RCW 28B.10.400. 91-13-048 (Resolution No. 91-20, Order 129), § 131-16-055, filed 6/14/91, effective 7/15/91.]

WAC 131-16-056 Hardship withdrawals. (1) In the event of a financial hardship consistent with requirements of subsection (2) of this section and Section 403 (b)(11) of the Internal Revenue Code, a participant may withdraw all or part of the following plan funds:

- (a) Pre-1998 employee contributions;
- (b) Any pre-1989 earnings on employee contributions;
- (c) Any Section 414(h) employer pick-up contributions; and

(d) Any contributions transferred to this plan from another employer's plan. Such funds may be withdrawn from the participant's Washington community and technical college system plan retirement account while actively employed. Hardship withdrawals may not be larger than the amount necessary to meet the immediate and heavy financial need defined in subsection (2) of this section plus taxes on withdrawn funds and early withdrawal penalties. Employer contributions (other than Section 414(h) pick-up contributions) and earnings on the employer contributions may not be withdrawn as a hardship withdrawal.

(2) To enable hardship withdrawal of funds, the Internal Revenue Code (Section 1.401(k)-1 (d)(2)) requires that the college president or designee shall verify that the participant has certified in writing that:

- (a) The participant has an immediate and heavy financial need; and
- (b) The participant has no other resources reasonably available to meet the need.

Withdrawals shall be deemed to be for "an immediate and heavy financial need" only if they are for:

- (i) Payments to prevent eviction from or foreclosure on the principal residence of the participant;
- (ii) Payments to prevent the participant's impending bankruptcy; and/or
- (iii) Unreimbursable medical expenses incurred by the participant, spouse, dependent children, and/or dependent parents.

The participant shall be deemed to have "no other resources reasonably available to meet the need" if the participant certifies that he/she cannot meet the need through:

- (A) Reimbursement or compensation by insurance or another source;
- (B) Reasonable liquidation of assets;
- (C) Borrowing from supplemental retirement accounts, life insurance values, or commercial sources; and/or
- (D) Stopping any voluntary employee contributions to tax deferral or savings plans made available by the employer. Contributions to the employer-sponsored retirement plan

must continue while the employee remains eligible for the plan.

(3) Hardship withdrawals from the community and technical college plan are taxable income in the year received. Taxes, early withdrawal penalties, and any other consequences of hardship withdrawals shall be the sole responsibility of the participant. Withdrawals from this qualified plan may not be replaced at a later date.

[Statutory Authority: RCW 28B.10.400. 05-24-051, § 131-16-056, filed 12/1/05, effective 1/1/06. Statutory Authority: RCW 28B.10.400 and chapter 28B.50 RCW. 98-14-033, § 131-16-056, filed 6/23/98, effective 7/24/98. Statutory Authority: Chapter 28B.50 RCW. 95-13-069, § 131-16-056, filed 6/20/95, effective 7/21/95.]

WAC 131-16-060 Cashability. Notwithstanding WAC 131-16-062(1), upon termination of employment at all community and technical college districts and the state board for at least one hundred eighty consecutive calendar days, a participant may elect to receive a lump sum payment of his or her plan account pursuant to the settlement options being made available by TIAA-CREF at that time.

[Statutory Authority: RCW 28B.10.400. 05-24-051, § 131-16-060, filed 12/1/05, effective 1/1/06. Statutory Authority: Chapter 28B.50 RCW. 97-10-069, § 131-16-060, filed 5/5/97, effective 7/8/97. Statutory Authority: RCW 28B.10.400. 93-01-015, § 131-16-060, filed 12/4/92, effective 1/4/93; 91-13-048 (Resolution No. 91-20, Order 129), § 131-16-060, filed 6/14/91, effective 7/15/91; Order 28, § 131-16-060, filed 7/1/74; Order 4, § 131-16-060, filed 10/22/69.]

WAC 131-16-061 Supplemental retirement benefits.

(1) A participant is eligible to receive supplemental retirement benefit payments if at the time of retirement the participant is age sixty-two or over and has at least ten years of full-time service in the plan at a Washington public institution of higher education: Provided, That the amount of the supplemental retirement benefit, as calculated in accordance with the provisions of this section, is a positive amount.

(2) Subject to the provisions of subdivisions (c), (d), and (e) of this subsection, the annual amount of supplemental retirement benefit payable to a participant upon retirement is the excess, if any, when the value determined in subdivision (b) is subtracted from the value determined in subdivision (a), as follows:

(a) The lesser of fifty percent of the participant's average annual salary or two percent of the average annual salary multiplied by the number of years of full-time service; provided that if the participant did not elect to contribute ten percent of salary beginning July 1, 1974, or if later, after attainment of age fifty, service for such periods shall be calculated at the rate of one and one-half percent instead of two percent.

(b) The combined retirement benefit from the TIAA-CREF annuity and any other Washington state public retirement system as a result of service while employed by a Washington public higher education institution that the participant would receive in the first month of retirement multiplied by twelve: Provided, That the TIAA-CREF benefit shall be calculated on the following assumptions:

(i) After July 1, 1974, fifty percent of the combined contributions were made to the TIAA traditional annuity and fifty percent to the CREF stock account during each year of full-time service: Provided, That benefit calculations related to contributions made prior to July 1, 1974, shall be com-

puted on the basis of actual allocations between TIAA and CREF; and

(ii) The full TIAA-CREF annuity accumulations, including all dividends payable by TIAA Traditional Annuity and further including the amounts, if any, paid in a single sum under the retirement transition benefit option, were fully settled on a joint and two-thirds survivorship option with a ten-year guarantee, using actual ages of retiree and spouse, but not exceeding a five-year difference; except that for unmarried participants the TIAA Traditional Annuity accumulations, including dividends, were settled on an installment refund option and the CREF Stock Account accumulations were settled on a life annuity with ten-year guarantee option, all to be based on TIAA-CREF estimates at the time of retirement; and

(iii) Annuity benefits purchased by premiums paid other than as a participant in a Washington public institution of higher education retirement plan shall be excluded.

(iv) For the purposes of this calculation, the assumptions applied to the plan accumulation settlement shall also apply to settlement of the benefit from any other retirement plan.

(c) The amount of supplemental retirement benefit for a participant who has not attained age sixty-five at retirement is the amount calculated in subsection (2) of this section reduced by one-half of one percent for each calendar month remaining until age sixty-five: Provided, That the supplemental retirement benefit for an otherwise qualified participant retired for reason of health or permanent disability shall not be so reduced.

(d) Any portion of participant's plan accumulation paid to a participant's spouse upon dissolution of a marriage shall be included in any subsequent calculation of supplemental retirement benefits just as if these funds had remained in the participant's plan account.

(e) The selection of a retirement option other than the joint and two-thirds survivorship with ten-year guarantee shall not alter the method of calculating the supplemental retirement benefit; however, if the participant's combined plan retirement benefit and calculated supplemental retirement benefit exceeds fifty percent of the participant's average annual salary, the supplemental retirement benefit shall be reduced so that the total combined benefits do not exceed fifty percent of average annual salary.

(3) The payment of supplemental retirement benefits shall be consistent with the following provisions:

(a) Supplemental retirement benefits shall be paid in equal monthly installments, except that if such monthly installments should be less than ten dollars, such benefit payments may be paid at longer intervals as determined by the state board.

(b) Supplemental retirement benefit payments will continue for the lifetime of the retired participant; however, prior to retirement, a participant may choose to provide for the continuation of supplemental retirement benefit payments, on an actuarially equivalent reduced basis, to his or her spouse or designated beneficiary after the retiree's death. Notification of such choice shall be filed in writing with the state board and shall be irrevocable after retirement. If such option is chosen, the supplemental retirement benefit payments shall be in the same proportion as any plan survivor annuity option potentially payable to and elected by the participant. If a des-

ignation of a survivor's option is not made and the participant dies after attaining age sixty-two but prior to retirement, any supplemental benefit payable shall be based on the two-thirds benefit to survivor option.

(c) Prior to making any supplemental benefit payments, the state board shall obtain a document signed by the participant and spouse, if any, or designated beneficiary acknowledging the supplemental retirement benefit option chosen by the participant.

(4) A retired participant who is reemployed shall continue to be eligible to receive retirement income benefits, except that the supplemental retirement benefit shall not continue during periods of employment for more than forty percent of full-time or seventy hours per month or five months duration in any fiscal year. Retirement contributions shall not be made from the salary for such employment, unless the individual once again becomes eligible to participate under the provisions of WAC 131-16-021.

[Statutory Authority: RCW 28B.10.400. 05-24-051, § 131-16-061, filed 12/1/05, effective 1/1/06. Statutory Authority: RCW 28B.10.400 and chapter 28B.50 RCW. 98-14-033, § 131-16-061, filed 6/23/98, effective 7/24/98. Statutory Authority: RCW 28B.10.400. 91-13-048 (Resolution No. 91-20, Order 129), § 131-16-061, filed 6/14/91, effective 7/15/91; 83-20-042 (Order 95, Resolution No. 83-25), § 131-16-061, filed 9/28/83. Statutory Authority: RCW 28B.10.400(3). 82-11-014 (Order 91, Resolution No. 82-6), § 131-16-061, filed 5/10/82. Statutory Authority: RCW 28B.10.400. 79-12-069 (Order 80, Resolution No. 79-44), § 131-16-061, filed 11/30/79; Order 28, § 131-16-061, filed 7/1/74.]

WAC 131-16-062 Benefit options after termination of employment. (1) After termination of employment, participants who have attained age fifty-five, or who have completed thirty years of full-time service in this plan or any combination of Washington state sponsored retirement plans, or who have retired due to disability in accordance with WAC 131-16-040 may exercise any settlement option for receipt of retirement benefits being made available by TIAA-CREF at that time.

(2) The federal income tax consequences resulting from the exercise of any options of elections provided by this section shall be the sole responsibility of the individual participant, and all federal tax regulations related to the receipt of retirement income benefits shall apply.

(3) The provisions of this section shall apply only to plan account accumulations attributable to contributions made as a result of employment in institutions or agencies subject to the provisions of WAC 131-16-005 through 131-16-066.

[Statutory Authority: RCW 28B.10.400. 05-24-051, § 131-16-062, filed 12/1/05, effective 1/1/06. Statutory Authority: RCW 28B.50.090. 92-22-045, (Order 137, Resolution 92-05-23), § 131-16-062, filed 10/28/92, effective 11/28/92. Statutory Authority: RCW 28B.10.400. 91-13-048 (Resolution No. 91-20, Order 129), § 131-16-062, filed 6/14/91, effective 7/15/91.]

WAC 131-16-065 Optional retirement transition benefit. Participants may choose the optional retirement transition benefit that at the time of their retirement permits receipt of not more than ten percent of the accumulated value in each annuity in a lump-sum payment, provided that annuity benefits commence after the participant's fifty-fifth birthday. Benefits from the remainder of the combined annuity value shall be paid in the form of other retirement options then available to the annuitant as now or hereafter permitted by TIAA-CREF. Selection of the option to receive the retire-

ment transition benefit shall be made immediately prior to retirement in such manner as now or hereafter permitted by TIAA-CREF.

[Statutory Authority: RCW 28B.10.400.05-24-051, § 131-16-065, filed 12/1/05, effective 1/1/06; 91-13-048 (Resolution No. 91-20, Order 129), § 131-16-065, filed 6/14/91, effective 7/15/91; Order 28, § 131-16-065, filed 7/1/74; Order 14, § 131-16-065, filed 2/18/72.]

WAC 131-16-066 Single sum death benefit to spouse beneficiaries. Unless previously indicated to the contrary by the participating employee in writing directly to TIAA-CREF, the surviving spouse or other beneficiary, if applicable, of any plan participant who dies before retirement shall be entitled to receive a single sum death benefit in the amount of the then current value of the annuity accumulation.

[Statutory Authority: RCW 28B.10.400.05-24-051, § 131-16-066, filed 12/1/05, effective 1/1/06; 91-13-048 (Resolution No. 91-20, Order 129), § 131-16-066, filed 6/14/91, effective 7/15/91; Order 28, § 131-16-066, filed 7/1/74; Order 15, § 131-16-066, filed 2/9/73.]

Chapter 131-28 WAC

TUITION AND FEE CHARGES

WAC

131-28-026 Tuition charges for certain ungraded courses.

WAC 131-28-026 Tuition charges for certain ungraded courses. (1) The state board shall designate ungraded courses. These courses may be offered at tuition rates that differ from the standard rates set by WAC 131-28-025. Ungraded shall mean courses not categorized by level of instruction and may be assigned degree credit or letter grades.

(2) Ungraded courses shall meet the following qualifications:

(a) The course has a specialized purpose in that it is intended to meet the unique educational needs of a specific category or group of students.

(b) The course is offered for the purpose of providing the individual student with a discrete skill or basic body of knowledge that is intended to enhance potential for initial or continued employment, parenting skills or retirement.

(c) The course cannot be administered as a contract course pursuant to WAC 131-28-027, 131-32-010, or 131-32-020.

(d) The course is not one specifically or primarily intended to satisfy requirements for receiving a high school diploma.

(3) Colleges may establish the amount of waiver for the following ungraded courses:

- (a) Farm management and small business management;
- (b) Emergency medical technician and paramedic continuing education;
- (c) Retirement;
- (d) Industrial first aid offered to satisfy WISHA and approved by the department of labor and industries;
- (e) Journey person training in cooperation with joint apprenticeship and training committees.

(4) The waiver amounts for the following ungraded courses shall conform with the following schedule:

[2006 WAC Supp—page 136]

(a) Adult basic education, English as a second language, GED preparation: An amount to be established by the state board.

(b) Parent education involving a cooperative preschool program: Eighty-five percent reduction from the standard per credit tuition and services activities fee charge.

(c) Courses offered for the purpose of satisfying related or supplemental educational requirements for apprentices registered with the Washington state apprenticeship council or federal Bureau of Apprenticeship and Training: A college shall waive one-half of the standard per credit tuition and services and activities fee. The college may convert the credit hour charge to a rounded amount per clock hour. Colleges may deduct the tuition owed from training contracts with apprentice organizations.

(5) Students taking both regular and ungraded courses will be charged separately for the courses.

(6) Application of this section shall be subject to administrative procedures established by the state director with respect to maximum credit values of such ungraded courses, curriculum, or any unique circumstances related to enrollment in such courses.

(7) Ungraded course fees received pursuant to this section shall be accounted for and deposited in local community college operating fee accounts established in RCW 28B.15.031.

(8) Ungraded course fees may be paid by the sponsoring entity rather than an individual student.

[Statutory Authority: Chapter 28B.50 RCW. 05-14-070, § 131-28-026, filed 6/30/05, effective 7/31/05; 04-11-027, § 131-28-026, filed 5/11/04, effective 6/11/04; 03-19-050, § 131-28-026, filed 9/10/03, effective 10/11/03; 98-22-062, § 131-28-026, filed 11/2/98, effective 12/3/98. Statutory Authority: Chapters 28B.15 and 28B.50 RCW. 96-03-049, § 131-28-026, filed 1/12/96, effective 1/12/96; 95-13-070, § 131-28-026, filed 6/20/95, effective 7/21/95. Statutory Authority: RCW 28B.15.502 and 1992 c 231, 232 and 238. 92-14-033 (Order 139, Resolution No. 92-06-39), § 131-28-026, filed 6/23/92, effective 7/24/92. Statutory Authority: RCW 28B.15.502. 91-21-011 (Order 133, Resolution No. 91-49), § 131-28-026, filed 10/4/91, effective 11/4/91. Statutory Authority: RCW 28B.50.090 (7)(d) and (10), 28B.50.851, 28B.15.502(4), 28B.15.522, 28B.50.140(3) and 1990 c 29. 90-20-009 (Order 122, Resolution Nos. 90-42 and 90-43), § 131-28-026, filed 9/20/90, effective 10/21/90. Statutory Authority: RCW 28B.15.502. 89-14-037 (Order 116, Resolution No. 89-16), § 131-28-026, filed 6/29/89. Statutory Authority: RCW 28B.15.502 and 28B.15.740. 82-22-023 (Order 94, Resolution No. 82-37), § 131-28-026, filed 10/26/82. Statutory Authority: RCW 28B.15.502. 82-11-035 (Order 93, Resolution No. 82-16), § 131-28-026, filed 5/11/82. Statutory Authority: RCW 28B.15.500 as amended by chapter 257, Laws of 1981. 81-19-060 (Order 89, Resolution No. 81-65), § 131-28-026, filed 9/14/81. Statutory Authority: Chapter 34.04 RCW and WAC 1-12-065. 78-07-064 (Order 71, Resolution No. 78-29), § 131-28-026, filed 6/30/78; Order 63 and Emergency Order 64, § 131-28-026, filed 9/13/77, effective 9/13/77; Order 25, § 131-28-026, filed 4/22/74, effective 7/1/74.]

Title 132A WAC

COMMUNITY COLLEGES— PENINSULA COLLEGE

Chapters

132A-350

Grievances—Discrimination.

DISPOSITION OF CHAPTERS FORMERLY
CODIFIED IN THIS TITLEChapter 132A-156
COLLEGE HOUSING

132A-156-006	Applications. [Statutory Authority: RCW 28B.50.140 and chapter 28B.50 RCW. 99-15-072, § 132A-156-006, filed 7/20/99, effective 8/20/99.] Repealed by 05-14-142, filed 7/5/05, effective 8/5/05. Statutory Authority: RCW 28B.50.140 and chapter 28B.50 RCW.
132A-156-011	Fees. [Statutory Authority: RCW 28B.50.140 and chapter 28B.50 RCW. 99-15-072, § 132A-156-011, filed 7/20/99, effective 8/20/99.] Repealed by 05-14-142, filed 7/5/05, effective 8/5/05. Statutory Authority: RCW 28B.50.140 and chapter 28B.50 RCW.
132A-156-016	Discipline. [Statutory Authority: RCW 28B.50.140 and chapter 28B.50 RCW. 99-15-072, § 132A-156-016, filed 7/20/99, effective 8/20/99.] Repealed by 05-14-142, filed 7/5/05, effective 8/5/05. Statutory Authority: RCW 28B.50.140 and chapter 28B.50 RCW.

Chapter 132A-350 WAC
GRIEVANCES—DISCRIMINATION

WAC

132A-350-015	Peninsula College antidiscrimination policy.
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WAC 132A-350-015 Peninsula College antidiscrimination policy. (1) **Preamble.** Peninsula College is committed to protecting the rights and dignity of each individual in the campus community and will not tolerate any form of discrimination. All Peninsula College employees and students may report alleged discriminatory behavior without fear of restraint, reprisal, interference, or coercion. No employee's or student's status with the college shall be adversely affected in any way because he or she utilizes the following procedures. Peninsula College's informal and formal grievance procedures are designed to ensure fairness and consistency in the college's relations with its employees and students. Nothing in these procedures shall be construed as abridging the right of an employee or student to allege discrimination in exercising constitutional or statutory rights which may be available.

(2) **Informal review procedures.** Any employee or student is urged to communicate his or her discrimination grievance to the appropriate supervisor. Every effort should be made to resolve the grievance informally within the department. However, should an employee or student feel that he or she is unable to discuss the grievance with the appropriate supervisor, then that employee or student should go to the major administrator for that unit, department, or division to discuss the problem. The employee or student may also wish to exercise his or her rights to pursue an informal resolution, which may include mediation with the assistance of the affirmative action officer.

(3) **Formal review procedures.** The following formal review procedures have been established for those kinds of discrimination problems which remain unsolved after informal review has occurred and when the informal procedure has failed to resolve the conflict to the satisfaction of the parties.

(a) Any employee or student who believes he or she has been discriminated against in connection with a violation of the college's affirmative action policy may, after the informal procedures have failed, file a formal complaint in writing with the college's affirmative action officer, stating the grievance and requesting a remedy. Within five working days of

the filing, the affirmative action officer shall serve a copy of the complaint to the respondent and notify the respondent's major administrator. The respondent has five working days in which to respond to the allegations in the complaint in writing and submit the reply to the affirmative action officer. Within five working days of the receipt of the reply, the affirmative action officer shall show the reply to the complainant, and ask both the complainant and respondent if they will mediate the complaint. If so, the affirmative action officer will initiate the mediation within ten working days of receiving the reply, unless availability of the parties involved necessitates an extension.

(b) If the complaint is unresolved after mediation, or if either party refuses to mediate, the affirmative action officer, or a qualified designee shall then investigate the complaint. Depending upon the circumstances, this investigation may include meetings with the employee, the immediate supervisor, the major administrator, and any other person who may be involved. A finding of probable cause or no probable cause shall be given to the employee or student by the affirmative action officer within sixty working days of the filing of the complaint. This time may be extended by mutual agreement between the complainant and the respondent.

(c) If the complainant or respondent is not satisfied with the results of the review as indicated above, that person may appeal to the college president. All information regarding the complaint shall be forwarded to the president by the affirmative action officer, and the complainant or respondent may submit any further information desired. The president shall, within ten working days, communicate in writing to the complainant or respondent a decision, with a copy to the affirmative action officer. Again, the time may be extended by mutual agreement. The decision of the president shall be the college's final decision.

[Statutory Authority: RCW 28B.50.140 and chapter 28B.50 RCW. 05-14-142, § 132A-350-015, filed 7/5/05, effective 8/5/05; 99-15-072, § 132A-350-015, filed 7/20/99, effective 8/20/99.]

Title 132C WAC
COMMUNITY COLLEGES—
OLYMPIC COLLEGEChapters
132C-120

Student conduct code.

Chapter 132C-120 WAC
STUDENT CONDUCT CODE

WAC

132C-120-015	Freedom of expression.
132C-120-040	Distribution of printed material on campus.
132C-120-050	Authority to prohibit trespass.
132C-120-060	Right to demand identification.
132C-120-065	Violations.
132C-120-071	Academic dishonesty.
132C-120-076	Classroom conduct.
132C-120-100	Jurisdiction.
132C-120-110	Disciplinary proceedings.
132C-120-115	Appeals.

132C-120-120	Composition of the student conduct board.
132C-120-125	Procedures for student conduct board hearing.
132C-120-130	Conduct of disciplinary hearings.
132C-120-135	Decision by the student conduct board.
132C-120-140	Final decision on disciplinary appeals.
132C-120-145	Disciplinary actions.
132C-120-150	Readmission after dismissal.
132C-120-210	Notice of summary suspension.
132C-120-215	Permission to enter or remain on campus.
132C-120-220	Procedures for summary suspension hearing.
132C-120-225	Decision by vice-president of student services.
132C-120-230	Failure to appear for summary suspension hearing.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

132C-120-030	Student records. [Statutory Authority: Chapter 28B.50 RCW. 85-13-067 (Order 24, Resolution No. 52-0585), § 132C-120-030, filed 6/18/85; 80-05-004 (Order 21, Resolution No. 49-0280), § 132C-120-030, filed 4/4/80.] Repealed by 05-10-052, filed 4/29/05, effective 5/30/05. Statutory Authority: Chapter 28B.50 RCW.
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WAC 132C-120-015 Freedom of expression. Fundamental to the democratic process are the rights of free speech and peaceful assembly. Students and student organizations shall be free to examine and to discuss all questions of interest to them and to express opinions publicly and privately. They shall always be free to support causes by orderly means which do not disrupt the regular and essential operation of the institution. At the same time, it should be made clear to the academic and the larger community that in their public expressions, students or student organizations speak only for themselves.

Any recognized student organization may invite to the campus any speaker a group wishes to hear, providing suitable space is available and there is no interference with the regular scheduled program of the college and officially sanctioned procedure is followed. It is understood that the appearance of such speakers on the campus implies neither approval nor disapproval of them or their viewpoints by this college, its students, its employees, or the board of trustees. In the case of speakers who are candidates for political office, equal opportunities shall be available to opposing candidates if desired by them. Speakers are subject to normal considerations for law and order.

In order to insure an atmosphere of open exchange and to insure that the educational objectives of the college are not obscured, the president may prescribe reasonable time, place and manner restrictions for the conduct of the meeting, such as requiring a designated member of the faculty as chair, or requiring permission for comments and questions from the floor. Likewise, the president may encourage the appearance of one or more additional speakers at the meeting in question or at a subsequent meeting so that other points of view may be expressed.

[Statutory Authority: Chapter 28B.50 RCW. 05-10-052, § 132C-120-015, filed 4/29/05, effective 5/30/05; 85-13-067 (Order 24, Resolution No. 52-0585), § 132C-120-015, filed 6/18/85; 80-05-004 (Order 21, Resolution No. 49-0280), § 132C-120-015, filed 4/4/80.]

WAC 132C-120-040 Distribution of printed material on campus. Publications, handbills, leaflets, statements, and similar materials except those which are commercial, obscene, or unlawful in character may be distributed without review or approval by any enrolled student or recognized group of students enrolled at Olympic College. It is to be

understood that such materials do not necessarily represent the views of the college or the board of trustees. Such materials may be distributed from authorized public areas in the student center and at any outdoor area on campus consistent with the maintenance of college property, with the free flow of traffic and persons, and not in a manner which in itself limits the orderly operation of college affairs.

Distribution of any printed materials by persons not members of the college community shall be prohibited unless approved in advance by the vice-president of student services or designee.

[Statutory Authority: Chapter 28B.50 RCW. 05-10-052, § 132C-120-040, filed 4/29/05, effective 5/30/05; 85-13-067 (Order 24, Resolution No. 52-0585), § 132C-120-040, filed 6/18/85; 80-05-004 (Order 21, Resolution No. 49-0280), § 132C-120-040, filed 4/4/80.]

WAC 132C-120-050 Authority to prohibit trespass.

The president or designee, acting through the vice-president of student services or such other designated person shall have authority and power to:

- (1) Prohibit the entry of, or withdraw the license or privilege of a person or persons or any group of persons to enter onto or remain upon any portion of a college facility; or
- (2) Give notice against trespass to any person, persons, or group of persons against whom the license or privilege has been withdrawn or who have been prohibited from entering onto or remaining upon all or any portion of a college facility; or
- (3) Order any person, persons, or group of persons to leave or vacate all or any portion of a college facility.

Such authority and power may be exercised to halt any event that is deemed to be unreasonably disruptive of order or threatens to disrupt the movement of persons from facilities owned and/or operated by the college. Any student or person who shall disobey a lawful order given by the college president or designee pursuant to the requirements of this rule shall be subject to disciplinary and/or legal action.

[Statutory Authority: Chapter 28B.50 RCW. 05-10-052, § 132C-120-050, filed 4/29/05, effective 5/30/05; 85-13-067 (Order 24, Resolution No. 52-0585), § 132C-120-050, filed 6/18/85; 80-05-004 (Order 21, Resolution No. 49-0280), § 132C-120-050, filed 4/4/80.]

WAC 132C-120-060 Right to demand identification.

For the purpose of determining the identity of a person as a student, where identification as a student is a prerequisite to admission or the charge for admission to any college activity, or where identification as a student is required in a case of alleged violation of this code, any college employee may demand that any person on college property or at a college activity produce evidence of student enrollment at the college. Failure of the student to produce identification as required shall subject the student to disciplinary action.

[Statutory Authority: Chapter 28B.50 RCW. 05-10-052, § 132C-120-060, filed 4/29/05, effective 5/30/05; 85-13-067 (Order 24, Resolution No. 52-0585), § 132C-120-060, filed 6/18/85; 80-05-004 (Order 21, Resolution No. 49-0280), § 132C-120-060, filed 4/4/80.]

WAC 132C-120-065 Violations. Any student shall be subject to immediate disciplinary action provided for in this student conduct code who, either as a principal actor or aider or abettor:

(1) Materially and substantially interferes with the personal rights or privileges of others or the educational process of the college;

(2) Violates any provision of the student conduct code;

(3) Commits any of the following acts which are hereby prohibited:

(a) Assault, reckless endangerment, intimidation, harassment, or interference upon another person.

(b) Disorderly, abusive, or bothersome conduct. Disorderly or abusive behavior that interferes with the rights of others or obstructs or disrupts teaching, research, or administrative functions.

(c) Failure to follow instructions. Inattentiveness, inability, or failure of student to follow the instructions of a college official, thereby infringing upon the rights and privileges of others.

(d) Providing false information to the college, forgery, or alteration of records.

(e) Illegal assembly, disruption, obstruction or other act which materially and substantially interferes with vehicular or pedestrian traffic, classes, hearings, meetings, the educational and administrative functions of the college, or the private rights and privileges of others.

(f) Inciting others. Intentionally encouraging, preparing, or compelling others to engage in any prohibited conduct.

(g) Hazing. Hazing means any method of initiation into a student organization or any pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause, bodily danger or physical, mental or emotional harm to any student or other person.

(h) False complaint. Knowingly or recklessly filing a formal complaint falsely accusing another student or college employee with violating a provision of this chapter.

(i) False alarms. Falsely setting off or otherwise tampering with any emergency safety equipment, alarm, or other device established for the safety of individuals and/or college facilities.

(j) Sexual harassment. Engaging in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where such behavior offends the recipient, causes discomfort or humiliation, or interferes with job or school performance.

(k) Malicious harassment. Malicious harassment involves intimidation or bothersome behavior directed toward another person because of, or related to that person's race, color, religion, gender, sexual orientation, ancestry, national origin, or mental, physical, or sensory disability.

(l) Theft and robbery. Theft of the property of the district or of another as defined in RCW 9A.56.010 through 9A.56.050 and RCW 9A.56.100 as now law or hereafter amended. Includes theft of the property of the district or of another; actual or attempted theft of property or services belonging to the college, any member of its community or any campus visitor; or knowingly possessing stolen property.

(m) Damage to any college facility or equipment. Intentional or negligent damage to or destruction of any college facility, equipment, or other public or private real or personal property.

(n) Unauthorized use of college or associated students' equipment or supplies. Converting of college equipment,

supplies, or computer systems for personal gain or use without proper authority.

(o) Illegal entry. Entering, or remaining in any administrative office or otherwise closed college facility or entering after the closing time of college facilities without permission of an employee in charge.

(p) Possession or use of firearms, explosives, dangerous chemicals, or other dangerous weapons, instruments, or substances that can be used to inflict bodily harm or to damage real or personal property, except for authorized college purposes or law enforcement officers.

(q) Refusal to provide identification (e.g., valid driver's license, student identification, passport, or state identification card) in appropriate circumstances to any college employee in the lawful discharge of the employee's duties.

(r) Smoking. Smoking in any classroom or laboratory, the library, or in any college facility, office, or any other smoking not in compliance with college policy or chapter 70.160 RCW.

(s) Controlled substances. Using, possessing, being demonstrably under the influence of, or selling any narcotic or controlled substance as defined in chapter 69.50 RCW as now law or hereafter amended, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist. For the purpose of this regulation, "sale" shall include the statutory meaning defined in RCW 69.50.410 as now law or hereafter amended.

(t) Alcoholic beverages. Being demonstrably under the influence of any form of alcoholic beverage. Possessing or consuming any form of alcoholic beverage on college property, with the exception of sanctioned events, approved by the president or his or her designee and in compliance with state law.

(u) Computer, telephone, or electronic technology violation. Conduct that violates the college published acceptable use rules on computer, telephone, or electronic technology use, including electronic mail and the internet.

(v) Computer trespass. Gaining or denying others access, without authorization, to a computer system or network, or electronic data owned, used by, or affiliated with Olympic College.

(w) Ethics violation. The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking courses or is pursuing as an educational goal or major. These ethics codes must be distributed to students as part of an educational program, course, or sequence of courses and the student must be informed that a violation of such ethics codes may subject the student to disciplinary action by the college.

(x) Criminal law violation, illegal behavior, other violations. Students may be accountable to the civil or criminal authorities and the college for acts which constitute violations of federal, state, or local law as well as college rules where the students' behavior is determined to threaten the health, safety, and/or property of the college and its members. The college may refer any such violations to civilian or criminal authorities for disposition.

[Statutory Authority: Chapter 28B.50 RCW. 05-10-052, § 132C-120-065, filed 4/29/05, effective 5/30/05; 85-13-067 (Order 24, Resolution No. 52-]

0585), § 132C-120-065, filed 6/18/85; 80-05-004 (Order 21, Resolution No. 49-0280), § 132C-120-065, filed 4/4/80.]

WAC 132C-120-071 Academic dishonesty. Academic dishonesty includes cheating, plagiarism, fabrication, and facilitating academic dishonesty.

(1) Cheating is intentionally using or attempting to use unauthorized materials, information, or study aids in any academic activity.

(2) Plagiarism includes submitting to a faculty member any work product that the student fraudulently represents to the faculty member as the student's work product for the purpose of fulfilling or partially fulfilling any assignment or task required by the faculty member as part of the student's program of instruction.

(3) Fabrication is the intentional and unauthorized falsification or invention of any information or citation in an academic activity.

(4) Facilitating academic dishonesty is intentionally or knowingly helping or attempting to help another to violate a provision of this section of the disciplinary code.

Acts of dishonesty are serious breaches of honor and shall be dealt with in the following manner:

(a) Any student who commits or aids in the accomplishment of an act of academic dishonesty shall be subject to disciplinary action.

(b) In cases of academic dishonesty, the student's final grade may be adjusted. The instructor may also refer the matter to the vice-president of student services for disciplinary action.

[Statutory Authority: Chapter 28B.50 RCW. 05-10-052, § 132C-120-071, filed 4/29/05, effective 5/30/05.]

WAC 132C-120-076 Classroom conduct. Faculty have the authority to take appropriate action to maintain order and proper conduct in the classroom and to maintain the effective cooperation of the class in fulfilling the objectives of the course.

An instructor has the authority to exclude a student from any single class session during which the student is disruptive to the learning environment. The instructor shall report any such exclusion from the class to the vice-president of student services or designee who may summarily suspend the student or initiate conduct proceedings as provided in this procedure. The vice-president of student services may impose a disciplinary probation that restricts the student from the classroom until the student has met with the vice-president of student services and the student agrees to comply with the specific conditions outlined by the vice-president of student services for conduct in the classroom. The student may appeal the disciplinary sanction according to the disciplinary appeal procedures.

[Statutory Authority: Chapter 28B.50 RCW. 05-10-052, § 132C-120-076, filed 4/29/05, effective 5/30/05.]

WAC 132C-120-100 Jurisdiction. Admission to the college carries with it the expectation that the student will obey the law, comply with rules and regulations of the college, and is accountable for his/her conduct.

[2006 WAC Supp—page 140]

All rules herein adopted shall apply to every student on any college property or engaged in any college related activity or function. Sanctions for violation of the rules of student conduct herein adopted will be administered by the college in the manner provided by said rules. When violations of the laws of the state of Washington and/or the United States are involved, the college may in addition refer such matters to civil authorities. In the case of minors such conduct may be referred to parents or guardians.

This code is applicable in all matters of discipline, and any disciplinary action imposed upon a student shall be taken in accordance with this code, unless the disciplinary action was imposed according to separate college policy which the student contractually accepted as a condition to participation in a particular course of study.

Disciplinary action, including dismissal from the college, may be imposed on a student for failure to abide by rules of conduct contained herein. The form of disciplinary action imposed will determine whether and under what conditions a violator may continue as a student at the college. Practices in disciplinary cases may vary in formality according to the severity of the case.

College administrative officers may deny admission to a prospective student or reregistration to a current student if, in their judgment, the student would not be competent to profit from the curricular offerings of the college, or would, by the student's presence or conduct, create a disruptive atmosphere within the college inconsistent with the purpose of the institution.

When reference in this document is made to a college official, that reference shall be read to include the specified college official or designee.

[Statutory Authority: Chapter 28B.50 RCW. 05-10-052, § 132C-120-100, filed 4/29/05, effective 5/30/05; 85-13-067 (Order 24, Resolution No. 52-0585), § 132C-120-100, filed 6/18/85; 80-05-004 (Order 21, Resolution No. 49-0280), § 132C-120-100, filed 4/4/80.]

WAC 132C-120-110 Disciplinary proceedings. Any person shall have the right to request sanctions for violations of the student conduct code.

All disciplinary proceedings will be initiated by the vice-president of student services who may also establish advisory panels to advise or act for the office in disciplinary proceedings.

Any student accused of violating any provision of the rules of student conduct will be called for an initial conference with the vice-president of student services and will be informed of what provision or provisions of the code of student conduct he/she is charged with violating and what appears to be the range of penalties which might result from consideration of the disciplinary proceeding.

After considering the evidence in the case and interviewing the accused, the vice-president of student services may take any of the following actions:

- (1) Terminate the proceeding, exonerating the accused;
- (2) Dismiss the case after whatever counseling and advice may be appropriate;
- (3) Impose sanctions directly such as warning, reprimand, restitution, disciplinary probation, suspension, and/or expulsion;

(4) Refer the matter to the student conduct board for a recommendation to the vice-president of student services as to appropriate action.

A student accused of violating any provision of the code of student conduct shall be given written notification of the vice-president of student services' action.

Disciplinary action recommended by the vice-president of student services is final unless the accused exercises his/her right of appeal as provided in WAC 132C-120-115.

[Statutory Authority: Chapter 28B.50 RCW. 05-10-052, § 132C-120-110, filed 4/29/05, effective 5/30/05; 85-13-067 (Order 24, Resolution No. 52-0585), § 132C-120-110, filed 6/18/85; 80-05-004 (Order 21, Resolution No. 49-0280), § 132C-120-110, filed 4/4/80.]

WAC 132C-120-115 Appeals. Any disciplinary action may be appealed as provided. Action by the vice-president of student services may be appealed to the student conduct board. Action taken by the student conduct board may be appealed to the president. Action taken by the president shall be final. All appeals by a student must be made in writing and presented to the college president within five instructional days of the disciplinary action/recommendation or the right to appeal is waived and the disciplinary action/recommendation is automatically imposed. Decisions on appeals will be rendered in writing within three instructional days following conclusion of the appeal process.

Time periods referenced in the code may be altered or waived on written agreement of the accused and vice-president of student services.

An appeal of a disciplinary action stays enforcement of the action until the appeal process is exhausted or a final decision reached.

[Statutory Authority: Chapter 28B.50 RCW. 05-10-052, § 132C-120-115, filed 4/29/05, effective 5/30/05; 85-13-067 (Order 24, Resolution No. 52-0585), § 132C-120-115, filed 6/18/85; 80-05-004 (Order 21, Resolution No. 49-0280), § 132C-120-115, filed 4/4/80.]

WAC 132C-120-120 Composition of the student conduct board. The student conduct board shall be composed of seven members on an ad hoc basis as needed. Members shall be selected as follows:

(1) The college president shall appoint three members and an alternate from the faculty.

(2) The president shall appoint one member from the college administration and an alternate.

(3) The college president shall appoint two members from the student body. The president may consult the president of the associate students of Olympic College for a recommendation of student members.

(4) The president of the college shall designate a chair from the membership who shall preside at all meetings and hearings. The chair shall not vote except to break a tie vote.

[Statutory Authority: Chapter 28B.50 RCW. 05-10-052, § 132C-120-120, filed 4/29/05, effective 5/30/05; 85-13-067 (Order 24, Resolution No. 52-0585), § 132C-120-120, filed 6/18/85; 80-05-004 (Order 21, Resolution No. 49-0280), § 132C-120-120, filed 4/4/80.]

WAC 132C-120-125 Procedures for student conduct board hearing. The student conduct board will hear and make recommendations to the president of the college on all disciplinary cases referred/appealed to it.

The accused has a right to a fair and impartial hearing before the student conduct board on any charge of violating rules of student conduct. The accused's failure to cooperate with hearing procedures shall not prevent the student conduct board from making its findings of fact, conclusions, and recommendations. Failure by the accused to cooperate may be taken into consideration by the student conduct board in recommending appropriate disciplinary action to the president.

The accused shall be given written notice of the time and place of the hearing before the student conduct board and afforded not less than five instructional days notice thereof. Said notice shall contain:

(1) A statement of the time, place, and nature of the disciplinary hearing.

(2) A statement of allegations and reference to relevant sections of the student conduct code involved.

The accused shall be entitled to hear and examine evidence against him/her and be informed of the identity of its source, shall be entitled to present evidence or witnesses in his/her own behalf and cross-examine adverse witnesses as to relevant factual matters.

Only those matters presented at the hearing in the presence of the accused will be considered by the student conduct board in determining whether there is sufficient evidence to cause it to believe the accused violated the student conduct code.

The student may be represented by counsel of choice at the disciplinary hearing. If the student elects to choose a duly licensed attorney admitted to practice in any state as counsel, he/she may do so provided that not less than three instructional days notice of the same is given the vice-president of student services.

In all disciplinary proceedings, the college may be represented by the vice-president of student services, designee, and/or assistant attorney general who shall present the college's case against the student accused of violating rules of the student conduct code.

The chair of the student conduct board shall preside at the disciplinary hearing and may establish organizational or operational procedures necessary to the conduct of the hearing. The chair may rule on all questions before the student conduct board and may limit repetitious testimony and exclude immaterial or irrelevant evidence. Strict rules of evidence shall not be applied.

The proceedings of the hearing shall be recorded and copies of presented materials retained. Such shall be kept in the vice-president of student services office after use by the student conduct board.

[Statutory Authority: Chapter 28B.50 RCW. 05-10-052, § 132C-120-125, filed 4/29/05, effective 5/30/05; 85-13-067 (Order 24, Resolution No. 52-0585), § 132C-120-125, filed 6/18/85; 80-05-004 (Order 21, Resolution No. 49-0280), § 132C-120-125, filed 4/4/80.]

WAC 132C-120-130 Conduct of disciplinary hearings. Hearings conducted by the student conduct board will be held in closed session except when the accused requests that students and staff other than those directly involved be invited to attend. If at any time during the conduct of a hearing invited guests are disruptive of the proceedings, the chair of the student conduct board may exclude such persons from the hearing room.

Any student or staff member attending the student conduct board hearing as an invited guest who continues to disrupt said proceedings after the chair of the student conduct board has asked him/her to cease and desist therefrom shall be subject to disciplinary action.

[Statutory Authority: Chapter 28B.50 RCW. 05-10-052, § 132C-120-130, filed 4/29/05, effective 5/30/05; 85-13-067 (Order 24, Resolution No. 52-0585), § 132C-120-130, filed 6/18/85; 80-05-004 (Order 21, Resolution No. 49-0280), § 132C-120-130, filed 4/4/80.]

WAC 132C-120-135 Decision by the student conduct board. Upon conclusion of the disciplinary hearing, the student conduct board shall in closed session consider the evidence therein presented. By majority the board shall reach its conclusions and recommended disciplinary action. The board shall issue in written form its conclusions and recommended disciplinary action within three instructional days of the conclusion of the hearing to the student, the vice-president of student services, and the president. The disciplinary recommendations of the board shall be limited to the following:

(1) That the student or students be exonerated and the proceedings terminated.

(2) That any disciplinary action provided in WAC 132C-120-145 be imposed on the student or students.

Disciplinary action recommended by the student conduct board shall be automatically imposed unless the accused exercises his/her right of appeal to the president as provided in WAC 132C-120-115.

[Statutory Authority: Chapter 28B.50 RCW. 05-10-052, § 132C-120-135, filed 4/29/05, effective 5/30/05; 85-13-067 (Order 24, Resolution No. 52-0585), § 132C-120-135, filed 6/18/85; 80-05-004 (Order 21, Resolution No. 49-0280), § 132C-120-135, filed 4/4/80.]

WAC 132C-120-140 Final decision on disciplinary appeals. The president of the college or any representative designated except the vice-president of student services shall on appeal review the record of the proceedings, the recommended action of the student conduct board, and any written statements of appeal filed by the accused student. Following review of all submitted materials, the president or designee will, within three instructional days, issue in writing to the accused, student conduct board, and vice-president of student services approval of the recommendations of the student conduct board or shall specify what other action shall be taken.

No hearing shall be held at this stage and the decision of the president shall be final.

[Statutory Authority: Chapter 28B.50 RCW. 05-10-052, § 132C-120-140, filed 4/29/05, effective 5/30/05; 85-13-067 (Order 24, Resolution No. 52-0585), § 132C-120-140, filed 6/18/85; 80-05-004 (Order 21, Resolution No. 49-0280), § 132C-120-140, filed 4/4/80.]

WAC 132C-120-145 Disciplinary actions. The following disciplinary actions are hereby established and shall be usual sanctions imposed upon violators of the code of student conduct:

Disciplinary warnings: Notice to a student either verbally or in writing that he/she has been in violation of the rules of student conduct or has otherwise failed to satisfy the college's expectations regarding conduct. Such warnings imply that continuation or repetition of the specific conduct involved or other misconduct will result in one of the more serious disciplinary actions described below.

Reprimand: Formal action censuring a student for violation of the rules of student conduct. Reprimands are always made in writing. A reprimand indicates to the student that continuation or repetition of the specific conduct involved or other misconduct will result in one of the more serious disciplinary actions described below.

Disciplinary probation: Formal action placing conditions upon the student's continued attendance for violation of the code of student conduct. The action will specify, in writing, the period of probation and any conditions such as limiting the student's participation in extracurricular activities. Disciplinary probation may be for a specified term or for an indefinite period which may extend to graduation or other termination of the student's enrollment in the college.

Dismissal: Termination of student status for violation of the code of student conduct. Dismissal may be for a stated or for an indefinite period. The notification dismissing a student will indicate, in writing, the term of the dismissal and any special conditions which must be met before readmission. There is no refund of tuition and fees for the quarter in which action is taken but tuition and fees paid in advance for a subsequent quarter are to be refunded.

Restitution: The college may demand restitution from individual students for destruction or damage of property. Failure to make arrangements for restitution promptly will result in the cancellation of the student's registration and will prevent the student from reregistration.

[Statutory Authority: Chapter 28B.50 RCW. 05-10-052, § 132C-120-145, filed 4/29/05, effective 5/30/05; 85-13-067 (Order 24, Resolution No. 52-0585), § 132C-120-145, filed 6/18/85; 80-05-004 (Order 21, Resolution No. 49-0280), § 132C-120-145, filed 4/4/80.]

WAC 132C-120-150 Readmission after dismissal. Any student dismissed from the college for disciplinary reasons may be readmitted only on written petition to the vice-president of student services. Such petitions must indicate how specified conditions have been met and, if the term of the dismissal has not expired, any reasons which support a reconsideration of the matter.

[Statutory Authority: Chapter 28B.50 RCW. 05-10-052, § 132C-120-150, filed 4/29/05, effective 5/30/05; 85-13-067 (Order 24, Resolution No. 52-0585), § 132C-120-150, filed 6/18/85; 80-05-004 (Order 21, Resolution No. 49-0280), § 132C-120-150, filed 4/4/80.]

WAC 132C-120-210 Notice of summary suspension. If the college president or designee desires to exercise the authority to summarily suspend a student, the president or designee shall cause notice thereof to be served on that student by registered or certified mail at the student's last known address, or by personal service of such notice to the student. The notice shall be entitled *Notice of Summary Suspension* and shall state:

(1) The charges against the student including reference to provisions of the student conduct code and/or law.

(2) That the student charged must appear before the vice-president of student services for a summary suspension hearing at a time specified in the notice.

[Statutory Authority: Chapter 28B.50 RCW. 05-10-052, § 132C-120-210, filed 4/29/05, effective 5/30/05; 85-13-067 (Order 24, Resolution No. 52-0585), § 132C-120-210, filed 6/18/85; 80-05-004 (Order 21, Resolution No. 49-0280), § 132C-120-210, filed 4/4/80.]

WAC 132C-120-215 Permission to enter or remain on campus. During the period of summary suspension, the student shall not enter any college property or attend any college function other than to meet with the vice-president of student services or attend a summary suspension hearing. However, the vice-president of student services may grant the student special permission to enter the campus for express purposes such as meeting with staff or students in preparation for a hearing.

[Statutory Authority: Chapter 28B.50 RCW. 05-10-052, § 132C-120-215, filed 4/29/05, effective 5/30/05; 85-13-067 (Order 24, Resolution No. 52-0585), § 132C-120-215, filed 6/18/85; 80-05-004 (Order 21, Resolution No. 49-0280), § 132C-120-215, filed 4/4/80.]

WAC 132C-120-220 Procedures for summary suspension hearing. At the summary suspension hearing, the student against whom the violation or violations are alleged shall have the opportunity of proving to the vice-president of student services that there is no cause to believe that the violations cited on the notice of summary suspension did occur, and that summary suspension is not necessary or justifiable pursuant to WAC 132C-120-200 through 132C-120-220.

The student may offer oral testimony, present witnesses, submit any statement or affidavit, examine any affidavit or cross-examine any witness who may appear against him/her and submit any matter in extenuation or mitigation of the offense or offenses charged.

The vice-president of student services shall at the time of the summary suspension hearing determine whether there is probable cause to believe that a violation of law or of the code of student conduct has occurred and whether there is cause to believe summary suspension continues to be necessary pursuant to WAC 132C-120-200 through 132C-120-220. In the course of making such decisions the vice-president of student services may consider only the affidavits and oral testimony of persons who alleged that the student charged has committed a violation of law or the student conduct code and the oral testimony and affidavits submitted by the student charged.

[Statutory Authority: Chapter 28B.50 RCW. 05-10-052, § 132C-120-220, filed 4/29/05, effective 5/30/05; 85-13-067 (Order 24, Resolution No. 52-0585), § 132C-120-220, filed 6/18/85; 80-05-004 (Order 21, Resolution No. 49-0280), § 132C-120-220, filed 4/4/80.]

WAC 132C-120-225 Decision by vice-president of student services. On conclusion of the summary suspension hearing and review of evidence and testimony presented therein, the vice-president of student services or designee may exercise a range of actions including but not limited to the following:

(1) Sustain the summary suspension for its duration or portion thereof, subject to disciplinary actions which may be brought under the code of student conduct rules following the suspension.

(2) Stay the summary suspension and impose any disciplinary action(s) enumerated in WAC 132C-120-110 Disciplinary proceedings of the code of student conduct.

Following the summary suspension hearing, the student shall be provided written notification of findings, conclusions, and disciplinary actions, if any. Notification and any attendant instructions or information will be provided through personal service or sent the student by registered or certified mail at the student's last known address.

[Statutory Authority: Chapter 28B.50 RCW. 05-10-052, § 132C-120-225, filed 4/29/05, effective 5/30/05; 85-13-067 (Order 24, Resolution No. 52-0585), § 132C-120-225, filed 6/18/85; 80-05-004 (Order 21, Resolution No. 49-0280), § 132C-120-225, filed 4/4/80.]

WAC 132C-120-230 Failure to appear for summary suspension hearing. If a student who has been summarily suspended fails to appear for a summary suspension hearing with the vice-president of student services as required by WAC 132C-120-210, the suspension will automatically stand for its specified duration, after which the vice-president of student services or designee may initiate further disciplinary proceedings against the student as provided in the code of student conduct.

[Statutory Authority: Chapter 28B.50 RCW. 05-10-052, § 132C-120-230, filed 4/29/05, effective 5/30/05; 85-13-067 (Order 24, Resolution No. 52-0585), § 132C-120-230, filed 6/18/85.]

Title 132D WAC COMMUNITY COLLEGES— SKAGIT VALLEY COLLEGE

Chapters

132D-120

Student rights and responsibilities.

Chapter 132D-120 WAC

STUDENT RIGHTS AND RESPONSIBILITIES

WAC

132D-120-230	Student grievances.
132D-120-240	Grievances excluded from this section.
132D-120-250	Grievance.
132D-120-260	Grievance procedure.
132D-120-270	Grievance procedure—Sex and disability discrimination.
132D-120-280	Grievance review committee procedures.
132D-120-290	Final decision regarding the appeal procedure—Extra-institutional appeals.
132D-120-320	Administrative, faculty and staff grievances.
132D-120-330	Prior rules.
132D-120-350	Effective date of the rules of conduct.

WAC 132D-120-230 Student grievances. The purpose of this section is to protect each student's freedom of expression in the classroom; to protect each student against improper disclosure of the students' views, beliefs and political associations; to protect each student from improper, arbitrary or capricious academic evaluation as evidenced by the student's course grade; and to afford each student reasonable protection against arbitrary or capricious actions taken outside the classroom by other members of the college community.

Skagit Valley College is committed to protecting the rights and dignity of each individual in the campus community. Therefore, the college will not tolerate discrimination of any kind, at any level.

Students may follow the college policy on sexual harassment and/or may file complaints with outside agencies, as referenced in WAC 132D-300-040(9). Students should determine the time deadlines that apply to the filing of complaints

with such outside agencies, as the college's internal processing of student complaints may not recognize such time periods.

[Statutory Authority: RCW 28B.50.140. 05-24-059, § 132D-120-230, filed 12/2/05, effective 1/2/06; 94-01-028, § 132D-120-230, filed 12/6/93, effective 1/6/94; 88-24-014 (Order 88-01), § 132D-120-230, filed 12/1/88, effective 1/1/89.]

WAC 132D-120-240 Grievances excluded from this section. (1) A student may not use the provisions of this section as the basis for filing a grievance based on the outcome of summary or other disciplinary proceedings described in sections of the code of student conduct.

(2) Federal and state laws, rules and regulations, in addition to policies, regulations and procedures adopted by the state board for community and technical colleges or the board of trustees of Community College District No. 4 shall not be grievable matters. College personnel actions are considered confidential. Results may not be made available for review.

[Statutory Authority: RCW 28B.50.140. 05-24-059, § 132D-120-240, filed 12/2/05, effective 1/2/06; 88-24-014 (Order 88-01), § 132D-120-240, filed 12/1/88, effective 1/1/89.]

WAC 132D-120-250 Grievance. If a student believes he or she has been unfairly treated by an officer of the college, faculty member or a member of the college staff, the student may follow the grievance procedures in the order outlined below. The student must initiate proceedings with the college within thirty working days of the occurrence that gave rise to the grievance. The college may choose to take appropriate corrective action at any time based on a student report whether or not the student chooses to pursue the grievance process.

[Statutory Authority: RCW 28B.50.140. 05-24-059, § 132D-120-250, filed 12/2/05, effective 1/2/06; 88-24-014 (Order 88-01), § 132D-120-250, filed 12/1/88, effective 1/1/89.]

WAC 132D-120-260 Grievance procedure. (1) The grievance procedures set forth in this section concern only those grievances that do not involve violation of Title IX of the Education Amendments of 1972 (sex discrimination) or section 504 of the Rehabilitation Act of 1973 (disability discrimination).

(2) A student wishing to pursue a resolution to his or her concern may contact the office where counseling services are provided. That office will serve as a source of information and direction for grievants.

(3) A student shall contact the faculty or staff member with whom he or she has a concern and attempt to resolve the matter through direct discussion. A student may ask a support person to accompany him or her in this discussion.

(4) If direct discussion does not resolve the concern to the student's satisfaction, the student shall take the matter to the faculty/staff member's immediate supervisor. The supervisor shall attempt to resolve the matter promptly and fairly.

(5) If the issue is not resolved, the supervisor shall forward the complaint to the appropriate administrator who shall meet with the student and, within three working days, write a letter to the student involved, copied to the faculty or staff member involved that details the resolution proposed.

(6) The procedure outlined in steps one through four shall be completed in twenty working days unless all parties agree to more time.

(7) The student shall be notified of this decision and shall also be informed of his or her right to file a petition to have the grievance heard before the grievance review committee. The student must submit this request to the office of the registrar within five days of his/her receipt of the administrator's letter. Any student alleging a violation of Title IX of the 1972 Education Amendments concerning sexual harassment may avail himself or herself of the college's sexual harassment policy.

[Statutory Authority: RCW 28B.50.140. 05-24-059, § 132D-120-260, filed 12/2/05, effective 1/2/06; 94-01-028, § 132D-120-260, filed 12/6/93, effective 1/6/94; 88-24-014 (Order 88-01), § 132D-120-260, filed 12/1/88, effective 1/1/89.]

WAC 132D-120-270 Grievance procedure—Sex and disability discrimination. (1) Any student alleging a violation of Title IX of the Education Amendments of 1972 (sex discrimination) or section 504 of the Rehabilitation Act of 1973 (disability discrimination) shall, as a first step in the grievance procedure, contact the Title IX officer or disabled student services coordinator. The student may contact the office where counseling services are provided for the name and location of the Title IX officer or disabled student services coordinator. Any student alleging a violation of Title IX of the 1972 Education Amendments concerning sexual harassment by a college faculty or staff member may avail himself or herself of the college's sexual harassment complaint procedures.

(2) The Title IX officer or disabled student services coordinator shall:

(a) Provide information about informal and formal options within and outside the college.

(b) Intervene, if requested by either party, in order to resolve the problem to the satisfaction of all.

(3) If the Title IX officer or disabled student services coordinator is unable to resolve the grievance, the student may request a hearing before the grievance review committee and is entitled to all appeals beyond that committee.

(4) Consultations with the Title IX officer and the disabled student services coordinator shall be strictly confidential.

[Statutory Authority: RCW 28B.50.140. 05-24-059, § 132D-120-270, filed 12/2/05, effective 1/2/06; 94-01-028, § 132D-120-270, filed 12/6/93, effective 1/6/94; 88-24-014 (Order 88-01), § 132D-120-270, filed 12/1/88, effective 1/1/89.]

WAC 132D-120-280 Grievance review committee procedures. (1) Any grievance not resolved by an administrator or the Title IX officer or disabled student services coordinator may be appealed to the grievance review committee for a hearing. The grievant or respondent shall petition the committee by obtaining an official grievance form from the office where counseling services are provided. That petition shall be made within five working days of the notice of decision in the previous proceedings.

(2) When a petition for review is filed, the student shall either:

(a) Be assigned a process advisor by the college or choose an advisor of his/her own; or

(b) Waive his or her right to an advisor; or

(c) Notify the college of his or her retention of an attorney at least one week prior to a scheduled grievance hearing. Where the student is accompanied by an attorney, the college may be represented by an assistant attorney general.

(3) The student's completed official grievance form shall be distributed to all members of the grievance review committee.

(4) The registrar shall chair the grievance review committee and its members shall be chosen as follows:

(a) Two faculty members appointed by the vice-president of educational services; and

(b) Two students appointed by the president of the associated students of Skagit Valley College; and

(c) Two classified staff members appointed by the classified staff designated leadership.

(5) The grievance review committee may call any witnesses and hear any testimony needed to reach a prompt, fair resolution of the grievance. The proceedings before the committee shall not be considered a formal trial-type hearing.

(6) Within three working days of the conclusion of the hearing, the committee shall issue a written recommendation. All parties shall receive a copy of this recommendation.

(7) In the case of instructional grievances, the committee's recommendations shall be sent to the vice-president of educational services. In all other cases, the committee's recommendations shall be forwarded to the vice-president responsible for the area in which the faculty or staff member is employed. The appropriate vice-president shall, within five working days, accept, modify, or reject the recommendations of the grievance review committee and notify all parties.

[Statutory Authority: RCW 28B.50.140. 05-24-059, § 132D-120-280, filed 12/2/05, effective 1/2/06; 88-24-014 (Order 88-01), § 132D-120-280, filed 12/1/88, effective 1/1/89.]

WAC 132D-120-290 Final decision regarding the appeal procedure—Extra-institutional appeals. (1) Where the student is not satisfied by the vice-president's decision, he or she may appeal that decision to the president of the college provided that such appeal is made within five working days of the student's receipt of notice of the decision.

(2) The president will review the record of the case prepared by the committee together with any appeal statement and will deliver a written acceptance of the vice-president's decision or directions as to what other course of action shall be taken, within ten instructional days after receiving the appeal.

(3) This decision shall constitute final agency action by the college.

(4) A student who feels aggrieved by the institution's final decision, may petition for judicial review of that decision according to the provisions of RCW 28B.19.150.

(5) For further review in sexual or disability discrimination cases, the grievant may send appeals or inquiries to:

(a) U.S. Department of Education
Office for Civil Rights Region X
915 Second Avenue, Room 3310
Seattle, WA 98174

206-220-7900

(b) Washington State Human Rights Commission
Third Avenue
Seattle, Washington 98101
206-464-6500

(c) Department of Justice Civil Rights Division
1424 New York Avenue, Room 5041
Washington, D.C. 20005
202-307-0818 (TTD), or 800-514-0383 (voice)

[Statutory Authority: RCW 28B.50.140. 05-24-059, § 132D-120-290, filed 12/2/05, effective 1/2/06; 88-24-014 (Order 88-01), § 132D-120-290, filed 12/1/88, effective 1/1/89.]

WAC 132D-120-320 Administrative, faculty and staff grievances. Any administrator, faculty member or staff member who is the subject of a student's grievance and who is dissatisfied with the results of any level of the student grievance proceedings may file a grievance under the appropriate grievance procedure established by Skagit Valley College.

[Statutory Authority: RCW 28B.50.140. 05-24-059, § 132D-120-320, filed 12/2/05, effective 1/2/06; 88-24-014 (Order 88-01), § 132D-120-320, filed 12/1/88, effective 1/1/89.]

WAC 132D-120-330 Prior rules. The rules contained within this chapter supersede all former rules relating to student grievances.

[Statutory Authority: RCW 28B.50.140. 05-24-059, § 132D-120-330, filed 12/2/05, effective 1/2/06; 88-24-014 (Order 88-01), § 132D-120-330, filed 12/1/88, effective 1/1/89.]

WAC 132D-120-350 Effective date of the rules of conduct. The rules contained within this chapter shall become effective July 1, 2005.

[Statutory Authority: RCW 28B.50.140. 05-24-059, § 132D-120-350, filed 12/2/05, effective 1/2/06; 88-24-014 (Order 88-01), § 132D-120-350, filed 12/1/88, effective 1/1/89.]

Title 132H WAC

COMMUNITY COLLEGES— BELLEVUE COMMUNITY COLLEGE

Chapters

132H-120	The student code of Community College District VIII.
132H-136	Library media center code.
132H-140	Fees—Facility rental—Additional services for Community College District VIII.
132H-142	First amendment activities for Community College District VIII.

Chapter 132H-120 WAC

THE STUDENT CODE OF COMMUNITY COLLEGE
DISTRICT VIII

WAC

132H-120-200 Student responsibilities.

WAC 132H-120-200 Student responsibilities. Any student shall be subject to disciplinary action as provided for in this chapter, who either as a principal actor, aide, abettor or accomplice as defined in RCW 9A.08.020:

(1) Materially and substantially interferes with the personal rights or privileges of others or the educational process of the college;

(2) Engages in unlawful conduct;

(3) Violates any provisions of this chapter; or

(4) Commits any prohibited act, including but not limited to the following:

(a) Alcoholic beverages. Being demonstrably under the influence of any form of alcoholic beverage. Possessing or consuming any form of liquor or alcoholic beverage except as a participant of legal age in a student program, banquet or educational program which has the special written authorization of the college president or his/her designee.

(b) Controlled substances. Using, possessing, delivering, selling or being under the influence of legend drugs, including anabolic steroids, androgens, or human growth hormones, as defined by RCW 69.50.101 or any other controlled substance as defined in RCW 69.50.101 as now law or hereafter amended, except upon valid prescription or order of a practitioner is subject to additional sanctions, including disqualification from participation in college-sponsored athletic events. For the purpose of this regulation, "sale" shall include the statutory meaning defined in RCW 69.04.005 as now law or hereafter amended.

(c) Illegal entry. Unauthorized entry into or onto any locked or otherwise closed college property or facility in any manner, at any time, without permission of the college employee or agent in charge thereof.

(d) Forgery or alteration of records. Forgery, as defined in RCW 9A.60.010 - 9A.60.020 as now law or hereafter amended or any district record of instrument or tendering any forged record of instrument to any employee or agent of the district acting in his/her official capacity as such.

(e) Illegal assembly. Participation in an assembly which materially and substantially interferes with vehicular or pedestrian traffic, classes, hearings, meetings, the educational and administrative functions of the college, or the private rights and privileges of others.

(f) Malicious mischief. Intentional or negligent damage to or destruction of any college facility or other public or private real or personal property.

(g) Failure to follow instructions. Failure to comply with directions of properly identified college officials acting in performance of their duties.

(h) Physical abuse. Physical abuse of any person or conduct which is intended unlawfully to threaten imminent bodily harm or to endanger the health or safety of any person on college-owned or controlled property or at college-sponsored or supervised functions.

(i) Assault. Assault, reckless endangerment, intimidation or interference upon another person in the manner set forth in RCW 9A.36.010 through 9A.36.050 or RCW 28B.10.570 through 28B.10.572 as now or hereafter amended.

(j) Disorderly, abusive, or bothersome conduct. Disorderly or abusive behavior that interferes with the rights of others or which obstructs or disrupts teaching, research, or administrative functions.

(k) Weapons. Possession or use of firearms, explosives, dangerous chemicals or other dangerous weapons or instrumentalities on the college campus, except for authorized college purposes or for law enforcement officers, unless written approval has been obtained from the dean of student services or any other person designated by the president.

(l) Lewd conduct. Engaging in lewd, indecent, or obscene behavior on college-owned or controlled property or at college-sponsored or supervised functions.

(m) False alarms. Falsely setting off or otherwise tampering with any emergency safety equipment, alarm or other device established for the safety of individuals and/or college facilities.

(n) Cheating and plagiarism. Engaging in cheating, stealing, plagiarizing, knowingly furnishing false information to the college, or submitting to a faculty member any work product that the student fraudulently represents as his or her own work for the purpose of fulfilling or partially fulfilling any assignment or task required as part of a program of instruction.

(o) Sexual harassment. Engaging in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where such behavior knowingly offends the recipient, causes discomfort or humiliation, or interferes with job or school performance.

(p) Theft or robbery. Theft or robbery from the district or from another as defined in RCW 9A.56.010 through 9A.56.050 and RCW 9A.56.100 as now law or hereafter amended.

(q) Unauthorized use of property. Converting or using college equipment, supplies or other property without proper authority.

(r) Refusal to provide identification. Refusal to provide positive identification (e.g., valid driver's license or state identification card) in appropriate circumstances to any college employee in the lawful discharge of said employee's duties.

(s) Smoking. Smoking in any college facility or on campus grounds except where specifically posted as permitted, or any other smoking not complying with chapter 70.160 RCW.

(t) False complaint. Filing a formal complaint falsely accusing another student or college employee with violating a provision of this chapter.

(u) Improper use of computer, telephone or other electronic devices. Conduct that violates WAC 132H-120-210. Trespassing or gaining access, without authorization, to a computer, system, network, or electronic data owned, used by, or affiliated with the college.

(v) Ethics violation. The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking courses or is pursuing as an educational goal or major. These ethics codes must be distributed to students as part of an educational program, course,

or sequence of courses and the student must be informed that a violation of such ethics may subject the student to disciplinary action by the college.

(w) Criminal law violation, illegal behavior, other unlawful violations. Students can be reported to proper authorities for acts which constitute violations to applicable local, state and federal laws. When the student's behavior is determined to threaten the health, safety and/or property of the college and its members, the college may immediately and summarily suspend the student and refer any such violation to the proper authorities for disposition.

(x) Stalking. Stalking behavior or conduct in which a student willfully and repeatedly follows or contacts someone with the intent and/or reasonable effect of creating fear or emotional distress and where the College determines that such behavior or conduct serves no legitimate purpose.

[Statutory Authority: RCW 28B.50.140. 05-17-012, § 132H-120-200, filed 8/4/05, effective 9/4/05; 03-14-015, § 132H-120-200, filed 6/19/03, effective 7/20/03; 02-10-069, § 132H-120-200, filed 4/26/02, effective 5/27/02. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 93-12-008, § 132H-120-200, filed 5/19/93, effective 6/19/93; 92-19-047, § 132H-120-200, filed 9/10/92, effective 10/11/92. Statutory Authority: RCW 28B.50.140. 86-01-056 (Order 91, Resolution No. 169), § 132H-120-200, filed 12/16/85; 83-12-012 (Order 84, Resolution No. 155), § 132H-120-200, filed 5/23/83; 81-07-034 (Order 71, Resolution No. 135), § 132H-120-200, filed 3/13/81; 80-15-011 (Order 71, Resolution No. 131), § 132H-120-200, filed 10/6/80; 78-07-024 (Order 57, Resolution No. 111), § 132H-120-200, filed 6/15/78; Order 44, § 132H-120-200, filed 8/11/76; Order 16, § 132H-120-200, filed 3/15/73.]

Chapter 132H-136 WAC LIBRARY MEDIA CENTER CODE

WAC

132H-136-010	Title.
132H-136-015	Purpose.
132H-136-020	Loans.
132H-136-025	Services.
132H-136-030	Fines.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

132H-136-035	Schedule of fines. [Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-19-052, § 132H-136-035, filed 9/10/92, effective 10/11/92.] Repealed by 05-17-013, filed 8/4/05, effective 9/4/05. Statutory Authority: RCW 28B.50.140.
132H-136-040	Student handbook. [Order 35, § 132H-136-040, filed 10/10/75; Order 13, § 132H-136-040, filed 3/9/73.] Repealed by 05-17-013, filed 8/4/05, effective 9/4/05. Statutory Authority: RCW 28B.50.140.

WAC 132H-136-010 Title. WAC 132H-136-010 through 132H-136-040 will be known as the library media center policy of Community College District VIII.

[Statutory Authority: RCW 28B.50.140. 05-17-013, § 132H-136-010, filed 8/4/05, effective 9/4/05; Order 13, § 132H-136-010, filed 3/9/73.]

WAC 132H-136-015 Purpose. The library media center (LMC) provides the information resources needed by students, faculty, staff and the community to encourage learning, innovation, intellectual integrity and civic responsibility. The LMC resources and services support the college's mission to provide accessible services and meet the changing educational needs of our diverse community. This policy

applies to all BCC employees, students and library users who use any of the library media center resources and facilities.

[Statutory Authority: RCW 28B.50.140. 05-17-013, § 132H-136-015, filed 8/4/05, effective 9/4/05.]

WAC 132H-136-020 Loans. Materials from the Bellevue Community College library media center are available to be checked out by members of the following groups.

(1) All currently registered students of Bellevue Community College.

(2) All currently employed faculty, emeritus faculty, administrative and classified staff, retired employees, members of the board of trustees and emeritus trustees.

(3) Individuals who show a particular need for specialized items in the library media collections which are not available elsewhere.

(4) Students and faculty from other institutions with which the Bellevue Community College library media center has a "reciprocal borrowing agreement." This group may use materials on a loan basis at the discretion of the circulation/media services manager, who shall determine lending priorities based upon the current usage of individual items by Bellevue Community College students.

[Statutory Authority: RCW 28B.50.140. 05-17-013, § 132H-136-020, filed 8/4/05, effective 9/4/05; Order 35, § 132H-136-020, filed 10/10/75; Order 13, § 132H-136-020, filed 3/9/73.]

WAC 132H-136-025 Services. The library media center maintains a web site and publishes a brochure summarizing information about the LMC, including hours of service, circulation of collections (including print and nonprint materials), and services and resources available (including media, equipment, and facilities).

[Statutory Authority: RCW 28B.50.140. 05-17-013, § 132H-136-025, filed 8/4/05, effective 9/4/05.]

WAC 132H-136-030 Fines. Charges are levied for overdue, lost, damaged materials and equipment.

(1) Replacement charges will include cost of replacement plus a processing fee. Replacement costs for items that are no longer in print or not available for purchase will be based upon the cost of a similar item plus a processing fee.

(2) Charges for overdue materials will be according to a fee schedule that is posted in the circulation desk area and the LMC web site and brochure. Students may appeal charges by following the library fines appeal procedure as detailed in the LMC manual of policies and procedures, a copy of which is available in the reserve collection.

(3) When materials are not returned, or charges not paid, holds are placed on the transcript records of those involved—only as a sanction to cause the ultimate return of library media material in order to protect the integrity of the library collection.

(4) In extreme cases, when expensive or valuable items are involved, the provisions of RCW 27.12.340 may be invoked.

[Statutory Authority: RCW 28B.50.140. 05-17-013, § 132H-136-030, filed 8/4/05, effective 9/4/05. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. 92-19-052, § 132H-136-030, filed 9/10/92, effective 10/11/92; Order 35, § 132H-136-030, filed 10/10/75; Order 13, § 132H-136-030, filed 3/9/73.]

Chapter 132H-140 WAC
FEES—FACILITY RENTAL—ADDITIONAL
SERVICES FOR COMMUNITY COLLEGE
DISTRICT VIII

WAC

132H-140-010	Title.
132H-140-020	Statement of purpose.
132H-140-025	Facilities use for first amendment activities.
132H-140-030	Request for use of facilities.
132H-140-050	Scheduling and reservation practices.
132H-140-065	Limitations and denial of use.

WAC 132H-140-010 Title. WAC 132H-140-010 through 132H-140-110 will be known as facility usage for other than first amendment activities for Community College District VIII.

[Statutory Authority: RCW 28B.50.140. 05-07-069, § 132H-140-010, filed 3/14/05, effective 4/14/05; 82-11-039 (Order 80, Resolution No. 149), § 132H-140-010, filed 5/12/82; 79-10-051 (Order 64, Resolution No. 121), § 132H-140-010, filed 9/17/79; Order 28, § 132H-140-010, filed 3/7/75.]

WAC 132H-140-020 Statement of purpose. Bellevue Community College District VIII is an educational institution provided and maintained by the people of the state of Washington. The college reserves its facilities, buildings and grounds for those activities that are related to its broad educational mission. At other times, the college facilities may be made available to other individuals and organizations.

The purpose of these regulations is to establish procedures and reasonable controls for the use of college facilities for non-college groups and for college groups where applicable.

In keeping with this general purpose, and consistent with RCW 28B.50.140(7) and 28B.50.140(9), facilities should be available for a variety of uses which are of benefit to the general public if such general uses substantially relate to and do not interfere with the mission of the college. However, a state agency is under no obligation to make its public facilities available to the community for private purposes.

Primary consideration shall be given at all times to activities specifically related to the college's mission, and no arrangements shall be made that may interfere with, or operate to the detriment of, the college's own teaching, or public service programs.

Reasonable conditions may be imposed to regulate the timeliness of requests, to determine the appropriateness of space assigned, time of use, and to insure the proper maintenance of the facilities. Subject to the same limitations, college facilities shall be made available for assignment to individuals or groups within the college community. Such arrangements by both organizations and individuals must be made through campus operations.

[Statutory Authority: RCW 28B.50.140. 05-07-069, § 132H-140-020, filed 3/14/05, effective 4/14/05; 02-14-007, § 132H-140-020, filed 6/20/02, effective 7/21/02; 82-11-039 (Order 80, Resolution No. 149), § 132H-140-020, filed 5/12/82; 79-10-051 (Order 64, Resolution No. 121), § 132H-140-020, filed 9/17/79; Order 28, § 132H-140-020, filed 3/7/75.]

WAC 132H-140-025 Facilities use for first amendment activities. Use of the campus for first amendment activities, as defined by law, is governed by the rules set forth in chapter WAC 132H-142-010 through 132H-142-060. This

chapter does not apply to those individuals or groups using the college facilities for first amendment activities.

[Statutory Authority: RCW 28B.50.140. 05-07-069, § 132H-140-025, filed 3/14/05, effective 4/14/05.]

WAC 132H-140-030 Request for use of facilities. Requests by non-college groups for utilization of college facilities shall be made to the director of campus operations or a designee, who shall be the agent of the college in consummating rental and use agreements.

[Statutory Authority: RCW 28B.50.140. 05-07-069, § 132H-140-030, filed 3/14/05, effective 4/14/05; 02-14-007, § 132H-140-030, filed 6/20/02, effective 7/21/02; 79-10-051 (Order 64, Resolution No. 121), § 132H-140-030, filed 9/17/79; Order 28, § 132H-140-030, filed 3/7/75.]

WAC 132H-140-050 Scheduling and reservation practices. The primary purpose of college facilities is to serve the instructional program of the college. However, the facilities, when not required for scheduled college use, may be available for rental by the public in accordance with current fee schedules and other relevant terms and conditions for such use.

No college facilities may be used by individuals or groups from outside the college unless the facilities including buildings, equipment and facilities land have been reserved.

In determining whether to accept a request for the use of college facilities, the administration shall use the college mission statement and the following items, listed in priority order, as guidelines:

- (1) Bellevue Community College scheduled programs and activities.
- (2) Major college events.
- (3) Foundation related events.
- (4) Noncollege (outside individual or organization) events.

Arrangements for use of college facilities must be made through the campus operations office.

[Statutory Authority: RCW 28B.50.140. 05-07-069, § 132H-140-050, filed 3/14/05, effective 4/14/05; 02-14-007, § 132H-140-050, filed 6/20/02, effective 7/21/02; 82-11-039 (Order 80, Resolution No. 149), § 132H-140-050, filed 5/12/82; 79-10-051 (Order 64, Resolution No. 121), § 132H-140-050, filed 9/17/79; Order 28, § 132H-140-050, filed 3/7/75.]

WAC 132H-140-065 Limitations and denial of use. Bellevue Community College is a state agency and exists to serve the public. However, the college may deny use of its facilities to any individual, group or organization if the requested use would

- (1) Interfere or conflict with the college's instructional, student services or support programs;
- (2) Interfere with the free flow of pedestrian or vehicular traffic on campus;
- (3) Involve illegal activity;
- (4) Create a hazard or result in damage to college facilities; or
- (5) Create undue stress on college resources (e.g., a request for a major event may be denied if another major event is already scheduled for the same time period, because of demands for parking, security coverage, etc.).

Where college space is used for an authorized function (such as a class or a public or private meeting under approved

sponsorship, administrative functions or service related activities), groups must obey or comply with directions of the designated administrative officer or individual in charge of the meeting.

Any individual or group granted permission to use college facilities shall agree in advance to abide by all college rules and regulations. The college reserves the right to deny use of college facilities to any individual or group whose past conduct indicates a likelihood that college rules and regulations will not be obeyed. The college may also deny use to a requesting individual or organization which has used the facilities in the past and has damaged college property, left college buildings and grounds in excessive disorder, or failed to cooperate with college staff concerning use of the facilities.

No person or group may use or enter onto college grounds or facilities having in their possession firearms or other dangerous weapons, even if licensed to do so, except commissioned police officers as prescribed by law.

College facilities may be used for purposes of political campaigning by or for candidates who have filed for public office, directed to members of the public, only when the full rental cost of the facility is paid. Use of state funds to pay for facility rental costs for political campaigns is prohibited.

If at any time actual use of college facilities by an individual or group constitutes an unreasonable disruption of the normal operation of the college, such use shall immediately terminate, all persons engaged in such use shall immediately vacate the premises, and leave the college property upon command of the appropriate college official.

Advertising or promotional materials for any event being held in a college facility must follow the same procedure as applies to students outlined in WAC 132H-120-050.

Use of audio amplifying equipment is permitted only in locations and at times that will not interfere with the normal conduct of college affairs.

BCC facilities may not be used for private or commercial purposes unless such activities clearly serve the educational mission of the college, are either sponsored by an appropriate college unit or conducted by contractual agreement with the college. Commercial uses may also be made as noted in WAC 132H-133-050.

Alcoholic beverages will not be served without the approval of the president or his/her designee. It shall be the responsibility of the event sponsor to obtain all necessary licenses from the Washington state liquor control board and adhere to their regulations, and those of Bellevue Community College.

[Statutory Authority: RCW 28B.50.140. 05-07-069, § 132H-140-065, filed 3/14/05, effective 4/14/05; 02-14-007, § 132H-140-065, filed 6/20/02, effective 7/21/02.]

Chapter 132H-142 WAC

FIRST AMENDMENT ACTIVITIES FOR COMMUNITY COLLEGE DISTRICT VIII

WAC

132H-142-010	Title.
132H-142-015	Definitions.
132H-142-020	Statement of purpose.
132H-142-030	Request for use of facilities.
132H-142-040	Additional requirements for noncollege groups.

132H-142-050	The role of the president in first amendment decisions.
132H-142-060	Criminal trespass.
132H-142-070	Posting of a bond and hold harmless statement.
132H-142-080	First amendment activities and protection of the college mission.

WAC 132H-142-010 Title. WAC 132H-142-010 through 132H-142-060 shall be known as use of Community College District VIII facilities by college groups and noncollege groups for first amendment activities.

[Statutory Authority: RCW 28B.50.140. 05-07-069, § 132H-142-010, filed 3/14/05, effective 4/14/05.]

WAC 132H-142-015 Definitions. For the purposes of this policy non-college groups shall mean individuals, or combinations of individuals, who are not currently enrolled students or current employees of Bellevue Community College or who are not officially affiliated or associated with a recognized student organization or a recognized employee group of the college.

For purposes of this policy, college groups shall mean individuals who are currently enrolled students or current employees of Bellevue Community College or who are affiliated with a recognized student organization or a recognized employee group of the college.

The college is a limited public forum for non-college groups. The limited public forum does not include college buildings or athletic fields. College buildings, rooms, and athletic fields may be rented in accordance with the college's facilities use policy.

[Statutory Authority: RCW 28B.50.140. 05-07-069, § 132H-142-015, filed 3/14/05, effective 4/14/05.]

WAC 132H-142-020 Statement of purpose. Bellevue Community College District VIII is an educational institution provided and maintained by the people of the state of Washington. The public character of the college does not grant to individuals an unlimited license to engage in activity which limits, interferes with, or otherwise disrupts the normal activities for and to which the college's buildings, facilities and grounds are dedicated and said buildings, facilities and grounds are not available for unrestricted use by noncollege groups. While said buildings, facilities and grounds are not available for unlimited use by college groups, it is recognized that Bellevue Community College students and employees should be accorded opportunity to utilize the facilities and grounds of the college to the fullest extent possible. The purpose of these time, place and manner regulations is to establish procedures and reasonable controls for the use of college facilities for both noncollege and college groups. It is intended to balance the college's responsibility to fulfill its mission as a state educational institution of Washington with the interests of noncollege groups or college groups who are interested in using the campus for purposes of constitutionally protected speech, assembly or expression.

[Statutory Authority: RCW 28B.50.140. 05-07-069, § 132H-142-020, filed 3/14/05, effective 4/14/05.]

WAC 132H-142-030 Request for use of facilities. Subject to the regulations and requirements of this policy, college or noncollege groups may use the campus limited forums for those activities protected by the first amendment.

Examples of first amendment activities would include, but not necessarily be limited to, informational picketing, petition circulation, the distribution of information leaflets or pamphlets, speech-making, demonstrations, rallies, appearances of speakers in outdoor areas, mass protests, meetings to display group feelings or sentiments and/or other types of constitutionally protected assemblies to share information, perspective or viewpoints.

Noncollege groups that intend to be on campus to engage in first amendment activities (hereinafter "the event") shall provide notice to the campus public safety department no later than forty-eight (48) hours prior to the event along with the following information:

- (1) The name, address and telephone number of the individual, group, entity or organization sponsoring the event (hereinafter "the sponsoring organization"); and
- (2) The name, address and telephone number of a contact person for the sponsoring organization; and
- (3) The date, time and requested location of the event; and
- (4) The nature and purpose of the event; and
- (5) The type of sound amplification devices to be used in connection with the event, if any; and
- (6) The estimated number of people expected to participate in the event.

Signs shall be no larger than three feet by five feet (3' x 5') and no individual may carry more than one sign.

If more than thirty (30) people are expected to participate in the event, the event must be held in the southern courtyard, just north of the Carlson Theater.

The use of sound amplification devices is limited to the limited public forum area as long as the sound amplification device is used at a volume which does not disrupt or disturb the normal use of classrooms, offices or laboratories or any previously scheduled college event or activity.

College groups are encouraged to notify the campus public safety department no later than 48 hours in advance of an event. However, unscheduled events are permitted so long as the event does not interfere with any other function occurring at the facility.

College group events shall not last longer than eight hours from beginning to end. Noncollege events shall not last longer than five hours from beginning to end.

Information may be distributed as long as it is not obscene or libelous or does not advocate unlawful conduct. The sponsoring organization is encouraged, but not required, to include its name and address on the distributed information. To avoid excessive littering of the campus and/or greatly increased work requirements for college physical plant employees, groups are asked to cooperate with the college in limiting the distribution of information leaflets or pamphlets to the limited public forum site.

Speech that does no more than propose a commercial transaction shall not occur in connection with the event.

The limited public forum used by the group should be cleaned up and left in its original condition and may be subject to inspection by a representative of the college after the event. Reasonable charges may be assessed against the sponsoring organization for the costs of extraordinary clean-up or for the repair of damaged property.

All fire, safety, sanitation or special regulations specified for the event are to be obeyed.

The college cannot and will not provide utility connections or hook-ups for purposes of first amendment activities conducted pursuant to this policy.

The event must not obstruct vehicular, bicycle, pedestrian or other traffic or otherwise interfere with ingress or egress to the college, or to college buildings or facilities, or to college activities or events.

The event must not create safety hazards or pose unreasonable safety risks to college students, employees or invitees to the college.

The event must not interfere with educational activities inside or outside any college building or otherwise prevent the college from fulfilling its mission and achieving its primary purpose of providing an education to its students.

The event must not materially infringe on the rights and privileges of college students, employees or invitees to the college.

The event must also be in accordance with any other applicable college policies and regulations, regulations and policies of Bellevue Community College, local ordinances and/or state or federal laws.

[Statutory Authority: RCW 28B.50.140. 05-07-069, § 132H-142-030, filed 3/14/05, effective 4/14/05.]

WAC 132H-142-040 Additional requirements for noncollege groups. The limited public forum may not be used on the same date as any previously scheduled college event or activity at the site (aside from regularly scheduled classes) where it is reasonably anticipated that more than five hundred (500) people will attend the college event or activity.

[Statutory Authority: RCW 28B.50.140. 05-07-069, § 132H-142-040, filed 3/14/05, effective 4/14/05.]

WAC 132H-142-050 The role of the president in first amendment decisions. The president of the college may authorize first amendment activities which are reasonably determined not to cause disruption of college activities despite a literal violation of this policy statement. Such determinations shall be made without consideration of the content or message of the first amendment activities.

The president of the college or designee may at any time, terminate, cancel or prohibit the event if it is determined, after proper inquiry, that the event does constitute or will constitute a clear and present danger to the college's orderly operation.

[Statutory Authority: RCW 28B.50.140. 05-07-069, § 132H-142-050, filed 3/14/05, effective 4/14/05.]

WAC 132H-142-060 Criminal trespass. Any person determined to be violating these regulations is subject to an order from the college public safety department to leave the college campus. Persons failing to comply with such an order to leave the college campus are subject to arrest for criminal trespass.

[Statutory Authority: RCW 28B.50.140. 05-07-069, § 132H-142-060, filed 3/14/05, effective 4/14/05.]

WAC 132H-142-070 Posting of a bond and hold harmless statement. When using college buildings or athletic fields, an individual or organization may be required to post a bond and/or obtain insurance to protect the college against cost or other liability in accordance with the college's facility use policy.

When the college grants permission to a college group or noncollege group to use its facilities it is with the express understanding and condition that the individual or organization assumes full responsibility for any loss or damage.

[Statutory Authority: RCW 28B.50.140. 05-07-069, § 132H-142-070, filed 3/14/05, effective 4/14/05.]

WAC 132H-142-080 First amendment activities and protection of the college mission. The college recognizes and supports the rights of groups and individuals to engage in first amendment activities. This policy shall be interpreted and construed to support such activities while simultaneously balancing the needs and interests of the college to fulfill its mission as a state educational institution of Washington.

[Statutory Authority: RCW 28B.50.140. 05-07-069, § 132H-142-080, filed 3/14/05, effective 4/14/05.]

Title 132P WAC

COMMUNITY COLLEGES— YAKIMA VALLEY COMMUNITY COLLEGE

Chapters

132P-33 Student rights and responsibilities.

Chapter 132P-33 WAC

STUDENT RIGHTS AND RESPONSIBILITIES

WAC

132P-33-100 Disclosure of student records.

WAC 132P-33-100 Disclosure of student records. The Family Educational Rights and Privacy Act (FERPA) permits a student's education records to be disclosed without consent to persons who meet the strict definition of an "education official" who has a "legitimate educational interest" in their records.

(1) **Education official.** Education official is defined as a person employed by the college in either an administrative, supervisory, academic, research, law enforcement or support staff position; persons serving on official committees such as disciplinary or grievance; an outside contractor (e.g., health or medical professional, attorney, auditor) acting as an agent for the college or the Washington state college and university systems.

The college may designate a student employee of the college as an education official, with the approval of the vice-president for instruction and student services, according to the following procedure:

(a) Supervisor establishes job description identifying specific tasks to be performed by the student employee that require access to personally identifiable confidential information about students, including enrollment records, grades, or other education records;

(b) Supervisor submits job description to dean for approval;

(c) Dean submits job description to the vice-president for approval;

(d) Vice-president forwards approved job description to supervisor.

(2) **Legitimate educational interest.** Educational interest is a need for an education official to review education records in order to fulfill his or her professional responsibilities. These responsibilities may or may not be limited to the following areas:

(a) Performing a task that is specified in his/her position;

(b) Researching a matter related to student discipline;

(c) Providing a service or benefit related to a currently enrolled student or a past student for which the college is still maintaining an educational record;

(d) Maintaining safety and security on campus.

(3) **Education records.** Education records are records, files, and documents containing information directly related to a student or maintained by an educational institution; such as:

(a) Records pertaining to admission, advising, registration, grades and degree information that are maintained by the college;

(b) Testing information used for advising and counseling purposes maintained by the college;

(c) Information maintained by the college concerning payment of fees;

(d) Financial aid information as maintained by the college;

(e) Information regarding students participating in student government or athletics maintained by the college.

The following student records are not considered education records and are not subject to FERPA protection against unauthorized disclosure:

(i) Employment records when the employment is not connected to student status;

(ii) Sole possession records or private notes held by education officials that are not accessible or released to other personnel; other than a temporary substitute;

(iii) Alumni records, which do not relate to the person as a student;

(iv) Application records of students not admitted to the college;

(v) Law enforcement or campus security records that are solely for law enforcement purposes and maintained solely by the law enforcement unit;

(vi) Records relating to treatment provided by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional and disclosed only to individuals providing treatment.

(4) **Directory information.** An educational institution is allowed to designate certain types of information that may be released without seeking written permission from the student. Directory information may be provided to the person requesting it either in person, by mail, or by telephone.

All requests for directory information from persons not employed by YVCC shall be referred to enrollment services. Only designated registration personnel are authorized to comply with requests for directory information.

Yakima Valley Community College has designated the following items as directory information:

- (a) Student's name;
- (b) Address;
- (c) Telephone number;
- (d) Date and place of birth;
- (e) Photographs;
- (f) E-mail address;
- (g) Major field of study;
- (h) Eligibility for and participation in officially recognized activities, organizations, and sports;
- (i) Weight and height statistics for members of athletic teams;
- (j) Dates of attendance (quarters in attendance);
- (k) Enrollment status (number of credits enrolled);
- (l) Honor roll;
- (m) Degrees and awards received;
- (n) Most recent previous educational agency or institution attended by the student.

(5) Protecting directory information from disclosure. Students have the right to prohibit the release of directory information. A student may prevent the release of directory information by personally submitting a request in writing to the enrollment services office. This request to prevent the release of information becomes a part of the student's record and remains in effect (even after graduation) until the student instructs the college, in writing, to remove the hold status on the record.

(6) Disclosure exceptions. In addition to directory information the college will, at its discretion, make disclosures from education records without the student's prior written consent or to the following listed parties:

- (a) Education officials with a legitimate educational interest;
- (b) To officials of another school in which the student seeks or intends to enroll;
- (c) To authorized federal, state, or local officials as required by law;
- (d) To persons specified in a lawfully served judicial order or subpoena, provided the college makes a reasonable effort to notify the student in advance of compliance (unless in the case of grand jury or other subpoenas which prohibit notification);
- (e) In connection with financial aid for which the student has applied or received;
- (f) To accrediting organizations, or organizations conducting studies for or on behalf of the institution;
- (g) To appropriate parties in a health or safety emergency (campus security will personally relay message of an emergent nature to students);
- (h) To parents of a dependent student, upon receipt of their most recently filed tax return, that shows the student as a dependent or upon receipt of a written statement approving the release of nondirectory information from the student. The following information can be released to the parents of dependent college students:
 - (i) Tuition account balances;

- (ii) Financial aid eligibility;
- (iii) Reason for an account hold (not to include titles of library materials);
- (iv) Explanation of the satisfactory academic progress policy;
- (v) Violation of student conduct policies concerning alcohol and controlled substances.

Faculty and staff of the college may provide job references for students, and may respond to inquiries from employers regarding students. Statements made by college personnel regarding students that are based on that person's personal observations do not require a written release from the student. However, if college personnel provide in either verbal or written form personally identifiable information about a student that is obtained from education records (grades, GPA, etc.,) the person is required to obtain prior written permission from the student. In cases where consent of the student is required for release of education records, the student shall submit a written, signed and dated statement specifying the records to be disclosed, the purpose of the disclosure, and the name of the party to whom the disclosure can be made.

When personally identifiable information is released without prior consent of the student, other than directory information and information released to education officials or the student, the education official in charge of these records will record the names of the parties who have requested information from education records and the nature of the interest in that information.

(7) Student's rights and responsibilities regarding student records.

(a) Students have the right to inspect and review their records by submitting a written, signed request to the enrollment services office stating the record they wish to review. Charges may be assessed for reproduced copies of education records.

(b) Students have the right to seek to amend their education records. Students who believe that information contained in their education record is inaccurate, misleading, or in violation of privacy rights, may submit a written request to amend their records to the appropriate education official. The education official(s) will make every effort to settle disputes through informal meetings and discussion with the student. In instances where disputes regarding contents of education records cannot be resolved by the parties concerned, the education official involved shall advise the student of the right to a hearing by the student submitting a written request, appealing the decision of the education official, to the registrar or dean of students. Should the registrar or dean of students deem that the education records in question are inaccurate or misleading, he or she can ask that the records be amended by the appropriate education official. If the education records are held to be accurate, the student shall be granted the opportunity to place within those records a personal statement commenting upon the information contained within.

(c) Students have the right to consent to disclosures of personally identifiable information contained in their education records, except to the extent that FERPA authorizes disclosure without consent.

(d) Each eligible student is afforded the right to file a complaint concerning alleged failures by the college to com-

ply with the requirements of the act. The address of the office designated to investigate, process, and review violations and complaints is:

The Family Educational Rights and Privacy Act Office (FERPA)

Department of Health, Education, and Welfare

330 Independence Avenue, S.W.

Washington, DC 20201

Web site: <http://www.ed.gov/offices/om/fpc/>

(e) Students have the right to obtain a copy of the college's student records policy. Copies are available through the associated student body and the enrollment services office.

[Statutory Authority: RCW 28B.50.150, WAC 132P-33-100, and 20 U.S.C. § 1232g. 05-16-005, § 132P-33-100, filed 7/21/05, effective 9/1/05. Statutory Authority: RCW 28B.50.140. 99-13-140, § 132P-33-100, filed 6/18/99, effective 7/19/99; 82-01-079 (Resolution No. 81-4), § 132P-33-100, filed 12/21/81.]

Title 132S WAC

COMMUNITY COLLEGES— COLUMBIA BASIN COLLEGE

Chapters 132S-50

College facilities.

Chapter 132S-50 WAC COLLEGE FACILITIES

WAC

132S-50-010	Purpose.
132S-50-020	Regulations regarding use of college facilities.
132S-50-024	Commercial activities.
132S-50-025	Commercial activities defined.
132S-50-026	Penalties for violations of commercial activities regulations.
132S-50-027	Distribution of materials.
132S-50-028	General policies limiting use.
132S-50-029	Liability for damage.
132S-50-040	Traffic and parking—Definitions.
132S-50-060	Special traffic and parking regulations and restrictions authorized.
132S-50-070	Traffic and parking—Enforcement.
132S-50-075	Fines, penalties and issuance of traffic tickets.
132S-50-080	Traffic and parking—Fines and penalties.
132S-50-085	Authorization for issuance of parking permits.
132S-50-090	Valid parking permit.
132S-50-100	Transfer of parking permits.
132S-50-110	Parking permit revocation.
132S-50-115	Parking permit revocation—Hearing provided.
132S-50-120	Allocation of parking space.
132S-50-125	Parking within designated spaces.
132S-50-140	Regulatory signs and directions.
132S-50-160	Report of accidents.
132S-50-170	Delegation of authority.
132S-50-185	Animal control.
132S-50-195	Smoke and tobacco-free environment.

WAC 132S-50-010 Purpose. Columbia Basin College exists as a facility which must provide for the needs of a community as expressed in the geographical boundaries of Ben-

ton and Franklin counties. Beyond its initial charge of education and training of people, there rests an additional responsibility to provide maximum use of its physical facilities for institutional and community use. It shall be the policy of Columbia Basin College to offer its physical facilities for group use on a priority basis as follows:

(1) Instructional activities[;][:]

(2) Student activities[;][:]

(3) Community activities.

Each group must abide by rules and regulations of use which shall be determined by the administration. Instructional and student groups must make an application in advance of the intended date of use to avoid scheduling conflicts. Community groups must make application for facility use and should make such application at least thirty days prior to the intended date of use.

[Statutory Authority: RCW 28B.50.140(7). 05-23-112, § 132S-50-010, filed 11/18/05, effective 12/19/05. Statutory Authority: RCW 28B.50.140 and chapter 28B.19 RCW. 82-21-012 (Order 82-1), § 132S-50-010, filed 10/11/82. Formerly WAC 132S-136-010.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 132S-50-020 Regulations regarding use of college facilities. The specific use of school facilities shall be governed by the regulations consistent with the intent of the policy. Primary consideration shall be given at all times to activities specifically related to the college's mission, and no arrangements shall be made that may interfere with, or operate to the detriment of, the college's own teaching, research or public service programs. These regulations shall be as follows:

(1) Requests for facility use must be submitted by means of a facility use form to the business office of Columbia Basin College.

(2) A Columbia Basin College employee must be assigned to the building during the scheduled time the facility is to be used.

(3) The administration reserves the right to deny or cancel any application for use when such use, or meeting, may in any way be prejudicial to the best interest of the school or for which satisfactory sponsorship is not provided. Review of such action may be carried to the board of trustees. The college may deny or cancel use of its facilities to any individual, group or organization if the requested use would:

(1) Interfere or conflict with the college's instructional, student services, or support programs;

(2) Interfere with the free flow of pedestrian or vehicular traffic on campus;

(3) Involve illegal activity;

(4) Create a hazard or result in damage to college facilities; or

(5) Create undue stress on college resources[.]

(4) Applications for college facility use which may be considered a major policy decision not fully covered by this existing policy statement may be referred directly to the administration for disposition. Any individual or group granted permission to use college facilities shall agree in advance to abide by all college rules and regulations. The col-

lege reserves the right to deny use of college facilities to any individual or group whose past conduct indicates a likelihood that college rules and regulations will not be obeyed. The college may also deny use to a requesting individual or organization which has used the facilities in the past and has damaged college property, left college buildings and grounds in excessive disorder, or failed to cooperate with college staff regarding use of the facilities.

(5) Rental charges shall be levied per twenty-four hour setting on the following basis:

[AMENDATORY SECTION (Amending Order 82-1, filed 10/11/82)]

- (a) Instructional use - Wherein facility is used for instructionally related activities, either by the college or by another post secondary institution
..... NO CHARGE
- (b) Student use - Where the use has been scheduled through the student activities office and is primarily for an activity that directs itself toward the benefit of Columbia Basin College ASB card holders
..... NO CHARGE
- (c) Community activities - All other uses which are noninstructional and nonstudent sponsored:

Category I - Use which results in a community benefit and is usually arranged for by a nonprofit civic organization Charge to be determined by the vice-president of administration to cover expenses.

Category II - Use by nonprofit community group[s]
..... The schedule for such rentals shall be as follows:

[(i)] [(1)]	Theater	\$125	Plus additional set up fees
[(ii)] [(2)]	Theater (special equipment)	\$150	Plus additional set up fees
[(iii)] [(3)]	Gym	\$100-500	Plus additional set up fees
[(4)]	Soccer Fields/Baseball Fields	\$300-500	Plus additional set up fees
[(iv)] [(5)]			
[(v)] [(5)]	Lecture Room	\$30	Plus additional set up fees
[(vi)] [(6)]	Classroom	\$15	Plus additional set up fees
(7)	Conference Room	\$30-300/day	Plus additional set up fees
(8)	HUB	\$75	Plus additional set up fees
(9)	Byron Gjerde Multipurpose Ctr	TBD by ASCBC	
(10)	Byron Gjerde Atrium Area	TBD by ASCBC	

The base rate for facilities will be adjusted periodically only as allowed by law. The college reserves the right to make pricing changes without prior written notice, except

that such price changes shall not apply to facility use agreements already approved in writing by the administration.

[Statutory Authority: RCW 28B.50.140(7). 05-23-112, § 132S-50-020, filed 11/18/05, effective 12/19/05. Statutory Authority: RCW 28B.50.140 and chapter 28B.19 RCW. 82-21-012 (Order 82-1), § 132S-50-020, filed 10/11/82. Formerly WAC 132S-136-020.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 132S-50-024 Commercial activities. The primary mission of institutions of higher education is the creation and dissemination of knowledge. Institutions of higher education must be mindful that in providing goods and services for fees, they may be competing with local private businesses. To promote the mission of Columbia Basin College, it is often necessary to engage in commercial activities that provide goods and services that meet special needs of students, faculty, staff and members of the public who participate in college activities and events. The college shall comply with chapter 28B.63 RCW, which establishes standards for colleges to follow in conducting commercial activities. (RCW 28B.63.010)

Columbia Basin College may engage in the providing of goods, services, or facilities for a fee only when such are directly and substantially related to the education mission of the college. Fees charged for goods, services, and facilities shall reflect their full direct and indirect costs, including overhead, and shall take into account the price of such items in the private marketplace.

In general, the facilities of the college shall not be rented to or used by, private or commercial organizations or associations, nor shall the facilities be rented to persons or organizations conducting programs for private gain. Columbia Basin [Community] College facilities will not be used for commercial solicitation, advertising, or promotional activities except when such activities clearly serve educational objectives, including but not limited to[,] display of books of interest to the academic or career oriented community or the display or demonstration of technical or research equipment, extracurricular programs, including food services, athletic and recreational programs, and performing arts programs, and when such commercial activities [are] related to educational objectives and are conducted under the sponsorship or at the request of[,] a college department or of the vice-president of administration or designee[[:]]; Provided, That such solicitation does not interfere with, or operate to the detriment of[,] the conduct of college affairs or the free flow of pedestrian or vehicular traffic.

[Statutory Authority: RCW 28B.50.140(7). 05-23-112, § 132S-50-024, filed 11/18/05, effective 12/19/05. Statutory Authority: RCW 28B.50.140 and chapter 28B.19 RCW. 82-21-012 (Order 82-1), § 132S-50-024, filed 10/11/82. Formerly WAC 132S-138-010.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 132S-50-025 Commercial activities defined. For the purposes of this chapter, the term "commercial activities" does not include handbills, leaflets, or newspapers dis-

tributed free of charge by any Columbia Basin College student or students or by members of recognized Columbia Basin College student organizations or by Columbia Basin College personnel that are distributed in a manner that does not unreasonably interfere with the ingress and egress of persons or the free flow of vehicular or pedestrian traffic, nor does it include commercial items sold through the college bookstore or any other facility at the direction of the vice-president of administration.

[Statutory Authority: RCW 28B.50.140(7). 05-23-112, § 132S-50-025, filed 11/18/05, effective 12/19/05. Statutory Authority: RCW 28B.50.140 and chapter 28B.19 RCW. 82-21-012 (Order 82-1), § 132S-50-025, filed 10/11/82. Formerly WAC 132S-138-020.]

WAC 132S-50-026 Penalties for violations of commercial activities regulations. Nonstudent persons violating [WAC 132S-10-070] the provisions of this chapter may be referred to civil authorities for appropriate prosecutions, including violations of the law of criminal trespass.

[Statutory Authority: RCW 28B.50.140(7). 05-23-112, § 132S-50-026, filed 11/18/05, effective 12/19/05. Statutory Authority: RCW 28B.50.140 and chapter 28B.19 RCW. 82-21-012 (Order 82-1), § 132S-50-026, filed 10/11/82. Formerly WAC 132S-138-030.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffective changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 132S-50-027 Distribution of materials. (1) The college reserves the right to control and regulate the distribution of materials which might interfere with the college's educational mission.

(2) Permission for the posting, display or distribution of handbills, leaflets, newspapers, posters and similar related matter on college facilities must be obtained from the vice-president of administration or designee. Permission for such posting or display will be given only if such material meets the following criteria:

(a) Must not be commercial, obscene or unlawful in nature;

(b) Must not interfere with the ingress and egress of persons, or interfere with the free flow of vehicle or pedestrian traffic, or the orderly administration of college affairs, or cause an interruption of classes.

(c) Each of such handbills, leaflets, newspapers and related matter must bear identification as to the publishing agency and distributing organization or individual, as well as the date when posted materials will be removed from the property.

(3) Students/college employees

Handbills, leaflets, newspapers and similar related matter may be sold or distributed free of charge by any Columbia Basin College student or students or by members of recognized Columbia Basin College student organizations or by Columbia Basin College employees on or in Columbia Basin College facilities at locations specifically designated by the director of student programs; provided such distribution or sale meets the criteria listed above (1a-c) [(2)(a)-(c)].

(4) Nonstudents persons and organizations not connected with the college may not distribute handbills, leaflets, newspapers and similar materials.

(5) Any distribution of materials as authorized by the office of the vice-president for administration and regulated by established guidelines shall not be construed as support or approval by the college community or the board of trustees.

[Statutory Authority: RCW 28B.50.140(7). 05-23-112, § 132S-50-027, filed 11/18/05, effective 12/19/05. Statutory Authority: RCW 28B.50.140 and chapter 28B.19 RCW. 82-21-012 (Order 82-1), § 132S-50-027, filed 10/11/82. Formerly WAC 132S-12-100.]

WAC 132S-50-028 General policies limiting use. (1) College facilities may not be used for purposes of political campaigning by or for candidates who have filed for public office except for student-sponsored activities. Rules, regulations, policies, procedures and practices regarding the use of college facilities shall not discriminate or promote discrimination among political parties, groups or candidates solely on the basis of their particular political viewpoint.

(2) Activities of commercial or political nature will not be approved if they involve the use of promotional signs or posters on buildings, trees, walls, or bulletin boards, or the distribution of samples or brochures outside rooms or facilities to which access may be granted.

(3) No person may solicit contributions on college property for political uses, except where this limitation conflicts with federal law concerning interference with the mail.

(4) Religious groups shall not, under any circumstances, use the college facilities as a permanent meeting place. Use shall be intermittent only, so as not to imply College endorsement.

(5) College facilities are available to all recognized CBC student groups and CBC faculty or staff organizations, subject to these general policies, except as provided in WAC 132S-50-029(1), and to the rules and regulations of the college governing student, faculty and staff affairs.

(6) The college reserves the right to prohibit the use of college facilities by groups which restrict membership or participation in a manner inconsistent with the college's commitment to nondiscrimination as set forth in its written policies and commitments.

[Statutory Authority: RCW 28B.50.140(7). 05-23-112, § 132S-50-028, filed 11/18/05, effective 12/19/05.]

WAC 132S-50-029 Liability for damage. The lessee of college facilities, including agreement signatories and individual organization leaders, shall be liable for any damage to college property occurring or having apparently occurred during the time the facility was being used by the organization. The lessee also agrees to hold harmless and indemnify Columbia Basin College, its agents, employees, officers, trustees, students and/or attorneys for any claim made against the college as a result of the lessee's use of college facilities. The college reserves the right to require using organizations to purchase insurance, naming the college as the insured, and may specify the amount of that insurance.

[Statutory Authority: RCW 28B.50.140(7). 05-23-112, § 132S-50-029, filed 11/18/05, effective 12/19/05.]

WAC 132S-50-040 Traffic and parking—Definitions. The words used in this chapter shall have the meaning given in this section, unless the context clearly indicates otherwise.

(1) "Board" shall mean the board of trustees of Community College District No. 19, state of Washington.

(2) "Campus" shall mean any or all real property owned, operated, or maintained by Community College District No. 19, state of Washington.

(3) "College" shall mean Columbia Basin [Community] College.

(4) "Faculty members" shall mean any employee of Community College District No. 19 who is certified to teach in a community college in the state of Washington.

(5) "Campus patrolman" shall mean an employee of the college, or a law enforcement student, who is responsible to the vice-president of administration for campus security.

(6) "Staff" shall mean the classified employees of Washington State Community College District No. 19.

(7) "Vehicle" shall mean an automobile, truck, motor driven cycle, scooter, or any vehicle empowered by a motor.

(8) "Visitors" shall mean any person or persons, excluding students as defined above, who come upon the campus as guests[,] and any person or persons who lawfully visit the campus for the purposes which are in keeping with the college's role as an institution of higher learning in the state of Washington.

(9) "Permanent permits" shall mean permits which are valid for a school term and shall be obtained from the plant operations office at the fee set by the board of trustees.

(10) "School term" shall mean, unless otherwise designated, the time period commencing with the fall quarter of a community college teaching year and extending through the immediately subsequent winter and spring quarters. It shall not include, however, summer school sessions.

(11) "Temporary permits" shall mean permits which are valid for a specific period of time designated on the permit.

[Statutory Authority: RCW 28B.50.140(7). 05-23-112, § 132S-50-040, filed 11/18/05, effective 12/19/05. Statutory Authority: RCW 28B.50.140 and chapter 28B.19 RCW. 82-21-012 (Order 82-1), § 132S-50-040, filed 10/11/82. Formerly WAC 132S-116-030.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 132S-50-060 Special traffic and parking regulations and restrictions authorized. Upon special occasions causing additional heavy traffic, during emergencies, or during construction of campus facilities, the vice-president of administration or designee is authorized to impose additional traffic and parking regulations or modify the existing rules and regulations for the achievement of the general objectives provided in WAC 132S-50-050.

[Statutory Authority: RCW 28B.50.140(7). 05-23-112, § 132S-50-060, filed 11/18/05, effective 12/19/05. Statutory Authority: RCW 28B.50.140 and chapter 28B.19 RCW. 82-21-012 (Order 82-1), § 132S-50-060, filed 10/11/82. Formerly WAC 132S-116-190.]

WAC 132S-50-070 Traffic and parking—Enforcement. (1) Enforcement of the parking rules and regulations will begin the first day of the first week of full classes of the fall quarter and will continue until the end of spring quarter. These rules and regulations will not be enforced during summer quarter, Saturdays, Sundays, and official college holidays.

(2) The vice-president of administration or designee, shall be responsible for the enforcement of the rules and regulations contained in this chapter. The vice-president of administration is hereby authorized to delegate this responsibility to the campus patrolman or other designated subordinates.

[Statutory Authority: RCW 28B.50.140(7). 05-23-112, § 132S-50-070, filed 11/18/05, effective 12/19/05. Statutory Authority: RCW 28B.50.140 and chapter 28B.19 RCW. 82-21-012 (Order 82-1), § 132S-50-070, filed 10/11/82. Formerly WAC 132S-116-230.]

WAC 132S-50-075 [Fines, penalties and] issuance of traffic tickets. Fines will be levied for parking violations that occur on CBC campus. A schedule shall be published in the CBC Student Handbook and on the parking citation form, and a copy of the fine schedule shall be available in the security office. Upon the violations of any of the rules and regulations contained in this chapter, the vice-president of administration, [or designee] or subordinates, may issue a summons or traffic ticket setting forth the date, the approximate time, permit number, license information, infraction, officer, and schedule of fines. Such summons or traffic tickets may be served by attaching or affixing a copy thereof in some prominent place outside such vehicle or by personally serving the operator.

[Statutory Authority: RCW 28B.50.140(7). 05-23-112, § 132S-50-075, filed 11/18/05, effective 12/19/05. Statutory Authority: RCW 28B.50.140 and chapter 28B.19 RCW. 82-21-012 (Order 82-1), § 132S-50-075, filed 10/11/82. Formerly WAC 132S-116-240.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 132S-50-080 Traffic and parking—Fines and penalties. The vice-president of administration or designee, is authorized to impose the following fines and penalties for the violation of the rules and regulations contained in this chapter:

(1) Except as provided under subsection (2) of this section, fines will be levied for all violations of the regulations contained in this chapter.

(2) Vehicles which are parked on any campus within Community College District No. 19 and which are in violation of any of the regulations contained in this chapter, may be impounded or detained by use of mechanical devices at the discretion of the vice-president of administration. If a vehicle is impounded, it may be taken to such place for storage as the[,] vice-president of administration or designee[,] selects. The expenses of such impounding and storage shall be charged to the owner or operator of the vehicle and paid by him prior to its release. The college and its employees shall not be liable for loss or damage of any kind resulting from such impounding and storage.

(3) At the discretion of the vice-president of administration, an accumulation of traffic violations by a student will be cause for disciplinary action, and the vice-president of administration shall initiate disciplinary proceedings against such student.

(4) A schedule of fines shall be set and reviewed by a committee of students appointed by the vice-president of administration. This schedule shall be published in the stu-

dent handbook, summary of parking regulations, and traffic summons form.

[Statutory Authority: RCW 28B.50.140(7). 05-23-112, § 132S-50-080, filed 11/18/05, effective 12/19/05. Statutory Authority: RCW 28B.50.140 and chapter 28B.19 RCW. 82-21-012 (Order 82-1), § 132S-50-080, filed 10/11/82. Formerly WAC 132S-116-250.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 132S-50-085 Authorization for issuance of parking permits. The[,] vice-president of administration or designee is authorized to issue parking permits to faculty members and staff members of the college pursuant to the following regulations:

(1) Faculty and staff members may be issued parking permits upon the registration of their vehicles at the beginning of fall quarter; provided that new faculty and staff members employed during the regular academic year may be issued parking permits upon the registration of their vehicles at the time they begin their employment at the college.

(2) The vice-president of administration or designee may issue temporary and special parking permits when such permits are necessary to enhance the business or operation of the college.

[Statutory Authority: RCW 28B.50.140(7). 05-23-112, § 132S-50-085, filed 11/18/05, effective 12/19/05. Statutory Authority: RCW 28B.50.140 and chapter 28B.19 RCW. 82-21-012 (Order 82-1), § 132S-50-085, filed 10/11/82. Formerly WAC 132S-116-050.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 132S-50-090 Valid parking permit. A valid parking permit is:

(1) An unexpired parking permit registered and properly displayed;

(2) A temporary parking permit authorized by the vice-president of administration or designee, and properly displayed;

(3) A special parking permit authorized by the vice-president of administration or designee, and properly displayed;

(4) A visitor's permit authorized by the vice-president of administration or designee, and properly displayed; or

(5) A shop permit authorized by a vocational-technical instructor and properly displayed.

[Statutory Authority: RCW 28B.50.140(7). 05-23-112, § 132S-50-090, filed 11/18/05, effective 12/19/05. Statutory Authority: RCW 28B.50.140 and chapter 28B.19 RCW. 82-21-012 (Order 82-1), § 132S-50-090, filed 10/11/82. Formerly WAC 132S-116-060.]

WAC 132S-50-100 Transfer of parking permits. Parking permits are transferable. If a vehicle is sold or traded, the permit holder may transfer the parking permit to the new vehicle if the vehicle is registered with the plant operations office when it is first driven onto campus.

[Statutory Authority: RCW 28B.50.140(7). 05-23-112, § 132S-50-100, filed 11/18/05, effective 12/19/05. Statutory Authority: RCW 28B.50.140 and chapter 28B.19 RCW. 82-21-012 (Order 82-1), § 132S-50-100, filed 10/11/82. Formerly WAC 132S-116-080.]

WAC 132S-50-110 Parking permit revocation. Parking permits are the property of the college and may be recalled by the vice-president of administration for any of the following reasons:

(1) When the purpose for which the permit was issued changes or no longer exists;

(2) When a permit is used by an unregistered vehicle or by an unauthorized individual;

(3) Falsification on a parking permit application;

(4) Continued violations of parking regulations; or

(5) Counterfeiting or altering a parking permit.

[Statutory Authority: RCW 28B.50.140(7). 05-23-112, § 132S-50-110, filed 11/18/05, effective 12/19/05. Statutory Authority: RCW 28B.50.140 and chapter 28B.19 RCW. 82-21-012 (Order 82-1), § 132S-50-110, filed 10/11/82. Formerly WAC 132S-116-090.]

WAC 132S-50-115 Parking permit revocation—Hearing provided. Cancellation or revocation of any parking permit because of any of the causes stated in WAC 132S-50-110 (2) through (5) may be appealed to the vice-president of administration, who shall then refer the matter to a hearing before a special hearing officer designated by the vice-president of administration. The hearing shall conform to the due process requirements of the Columbia Basin [Community] College student code and the decision of the hearing officer shall be final. The same appeal procedure as above shall be utilized in the case where the revoked permit has been held by an administrator or faculty member.

[Statutory Authority: RCW 28B.50.140(7). 05-23-112, § 132S-50-115, filed 11/18/05, effective 12/19/05. Statutory Authority: RCW 28B.50.140 and chapter 28B.19 RCW. 82-21-012 (Order 82-1), § 132S-50-115, filed 10/11/82. Formerly WAC 132S-116-100.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 132S-50-120 Allocation of parking space. The parking space available on campus shall be designated and allocated by the vice-president of administration or designee, in such a manner as will best effectuate the objectives of the rules and regulations in this chapter.

(1) Faculty and staff spaces will be so designated for their use; provided, physically handicapped students and others designated by the vice-president of administration or designee may be granted special permits to park in close proximity to the classroom used by such students.

(2) Parking spaces will be designated for use of visitors on campus.

(3) Handicap parking spaces will be designated. The allocated parking spaces are exclusively for use by those designated, provided that the appropriate parking permits are obtained by the users and are displayed properly upon their vehicles. People with disabilities - staff, visitors, and students - shall be given parking priority whenever possible within close proximity to offices, classrooms, or access ways. No student or staff member shall park in a handicapped designated parking space without possessing either a Washington state permanent handicapped permit or a CBC temporary handicapped parking permit approved by the vice-president of administration or designee. A fine may be imposed for

nonhandicap users parking in a designated handicap parking space.

[Statutory Authority: RCW 28B.50.140(7). 05-23-112, § 132S-50-120, filed 11/18/05, effective 12/19/05. Statutory Authority: RCW 28B.50.140 and chapter 28B.19 RCW. 82-21-012 (Order 82-1), § 132S-50-120, filed 10/11/82. Formerly WAC 132S-116-120.]

WAC 132S-50-125 Parking within designated spaces. (1) All vehicles shall follow traffic arrows and other markings established for the purpose of directing traffic on campus.

(2) In areas marked for diagonal parking, vehicles shall be parked at a forty-five degree angle, facing head in.

(3) In areas marked for parallel or right-angle parking, space or stall markings will be observed, and vehicles will park facing head in.

(4) No vehicle shall be parked so as to occupy any portion of more than one parking space or stall as designated within the parking area. The fact that other vehicles may have been so parked as to require the vehicle parked to occupy a portion of more than one space or stall shall not constitute an excuse for a violation of this section.

(5) No vehicle shall be parked on the campus except in those areas set aside and designated pursuant to WAC 132S-50-120.

[Statutory Authority: RCW 28B.50.140(7). 05-23-112, § 132S-50-125, filed 11/18/05, effective 12/19/05. Statutory Authority: RCW 28B.50.140 and chapter 28B.19 RCW. 82-21-012 (Order 82-1), § 132S-50-125, filed 10/11/82. Formerly WAC 132S-116-130.]

WAC 132S-50-140 Regulatory signs and directions. The vice-president of administration or designee is authorized to erect signs, barricades and other structures and to paint marks or other directions upon the entry ways and streets on campus and upon the various parking lots owned or operated by the college. Such signs, barricades, structures, markings, and directions, shall be so made and placed as in the opinion of the vice-president of administration or designee, will best effectuate the rules and regulations contained in this chapter. Drivers of vehicles shall observe and obey the signs, barricades, structures, markings and directions erected pursuant to this section. Drivers shall also comply with the directions given them by the campus patrolman in the control and regulation of traffic.

[Statutory Authority: RCW 28B.50.140(7). 05-23-112, § 132S-50-140, filed 11/18/05, effective 12/19/05. Statutory Authority: RCW 28B.50.140 and chapter 28B.19 RCW. 82-21-012 (Order 82-1), § 132S-50-140, filed 10/11/82. Formerly WAC 132S-116-160.]

WAC 132S-50-160 Report of accidents. The operator of any vehicle involved in an accident on campus resulting in injury to or death of any person or total of claimed damage to either or both vehicles exceeding one hundred dollars shall immediately report such accident to the vice-president of administration and shall within twenty-four hours after such accident, file a state of Washington motor vehicle accident report.

[Statutory Authority: RCW 28B.50.140(7). 05-23-112, § 132S-50-160, filed 11/18/05, effective 12/19/05. Statutory Authority: RCW 28B.50.140 and chapter 28B.19 RCW. 82-21-012 (Order 82-1), § 132S-50-160, filed 10/11/82. Formerly WAC 132S-116-210.]

WAC 132S-50-170 Delegation of authority. The authority and powers conferred upon the vice-president of administration by these regulations shall be subject to delegation to appointed designees.

[Statutory Authority: RCW 28B.50.140(7). 05-23-112, § 132S-50-170, filed 11/18/05, effective 12/19/05. Statutory Authority: RCW 28B.50.140 and chapter 28B.19 RCW. 82-21-012 (Order 82-1), § 132S-50-170, filed 10/11/82. Formerly WAC 132S-116-270.]

WAC 132S-50-185 Animal control. In order to assure the health and safety of all persons on properties owned or controlled by Columbia Basin [Community] College, the following rules and regulations regarding animal control are hereby promulgated: No person will be permitted to bring any animal upon properties owned or controlled by Columbia Basin [Community] College unless such animal is a service dog as defined in RCW 70.84.020 [and] is under the immediate control of such person[;][.] [Guide dogs as defined in RCW 70.84.020.] Only service dogs as defined in RCW 70.84.020 will be permitted to enter buildings owned or controlled by Columbia Basin College.

[Statutory Authority: RCW 28B.50.140(7). 05-23-112, § 132S-50-185, filed 11/18/05, effective 12/19/05. Statutory Authority: RCW 28B.50.140 and chapter 28B.19 RCW. 82-21-012 (Order 82-1), § 132S-50-185, filed 10/11/82. Formerly WAC 132S-124-020.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 132S-50-195 Smoke and tobacco-free environment. (1) Smoking and tobacco products are not allowed inside any building or vehicle operated by Columbia Basin College.

(2) Smoking materials and related tobacco supplies will not be available for sale or vended on the campuses.

(3) Smoking and tobacco use by students and nonstudents, including visitors, are prohibited within at least fifty feet of building openings (i.e., doors, air intakes, windows), and spaces near outdoor work areas.

(4) Smoking is prohibited in any location where the air-flow carries smoke directly into a facility work area.

(5) Smokers must dispose of smoking and tobacco refuse in ash cans or other containers specifically designed and placed for such disposal.

(6) CBC shall ensure, through proper posting, that outside smoking and tobacco use areas are at least fifty feet from doorways and air intakes.

(7) Any student, staff or faculty member who violates the college smoking policy may be subject to disciplinary action. In addition, violations of the college smoking policy may be subject to enforcement by the Pasco police department.

[Statutory Authority: RCW 28B.50.140(7). 05-23-112, § 132S-50-195, filed 11/18/05, effective 12/19/05. Statutory Authority: RCW 28B.50.140 and chapter 28B.19 RCW. 82-21-012 (Order 82-1), § 132S-50-195, filed 10/11/82. Formerly WAC 132S-125-010.]

Title 132Z WAC COMMUNITY COLLEGES— CASCADIA COMMUNITY COLLEGE

Chapters

132Z-104	Board of trustees.
132Z-108	Practice and procedure.
132Z-112	Student rights and responsibilities.
132Z-115	Code of student conduct and disciplinary procedures.
132Z-133	Organization.
132Z-134	Designation of rules coordinator.
132Z-276	Access to public records.

Chapter 132Z-104 WAC BOARD OF TRUSTEES

WAC

132Z-104-010	Time and place of board meetings.
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WAC 132Z-104-010 Time and place of board meetings. The board of trustees shall hold one regular meeting on the third Wednesday of each month and such special meetings as may be requested by the chair of the board or by a majority of the members of the board and announced in accordance with law.

Place and time will be published annually with the code revisers office.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903. 05-06-003, § 132Z-104-010, filed 2/17/05, effective 3/20/05. Statutory Authority: Chapter 28B.50 RCW. 96-14-098, § 132Z-104-010, filed 7/2/96, effective 8/2/96.]

Chapter 132Z-108 WAC PRACTICE AND PROCEDURE

WAC

132Z-108-040	Application for adjudicative proceeding.
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WAC 132Z-108-040 Application for adjudicative proceeding. An application for adjudicative proceeding shall be in writing. An application shall include the signature of the applicant, the nature of the matter for which an adjudicative proceeding is sought, and an explanation of the facts involved.

Application forms are available at the following address:

Cascadia Community College
18345 Campus Way N.E.
Bothell, WA 98011

Written application for an adjudicative proceeding should be submitted to the above address within twenty calendar days of the agency action giving rise to the application, unless provided for otherwise by statute or rule.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903. 05-06-003, § 132Z-108-040, filed 2/17/05, effective 3/20/05. Statutory Authority: Chapter 28B.50 RCW. 96-14-098, § 132Z-108-040, filed 7/2/96, effective 8/2/96.]

Chapter 132Z-112 WAC

STUDENT RIGHTS AND RESPONSIBILITIES

WAC

132Z-112-010	Values pursuant to student rights and responsibilities.
132Z-112-020	Freedom of inquiry and expression.
132Z-112-030	Student records—Family educational rights and privacy.
132Z-112-040	Financial assistance for students—Scholarships.
132Z-112-050	Financial assistance for students—Financial aid.
132Z-112-060	Student rights.
132Z-112-070	Academic freedom.
132Z-112-080	Nondiscrimination.
132Z-112-090	Due process.
132Z-112-100	Right of assembly.
132Z-112-110	Conflict resolution.
132Z-112-120	Student responsibilities.

WAC 132Z-112-010 Values pursuant to student rights and responsibilities. Cascadia Community College, a state supported institution of higher education is a learning-centered college, maintained for the purpose of providing all learners knowledge and skills for the achievement of their academic, professional, technical, and personal goals. As a public institution of higher education, the college also exists to provide students with the capacity for critical judgment and an independent search for truth toward both optimal individual development and the well being of the entire learning community.

Inherent in the college's mission, vision, and goals are certain rights and freedoms which provide to students the support and respect needed for learning and personal development. Admission to Cascadia Community College provides these rights to students but also assumes that students accept the responsibility to conduct themselves in a manner that does not interfere with the purposes of the college in providing education for all of its learners.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903. 05-06-003, § 132Z-112-010, filed 2/17/05, effective 3/20/05. Statutory Authority: RCW 28B.50.140. 00-20-037, § 132Z-112-010, filed 9/28/00, effective 10/29/00.]

WAC 132Z-112-020 Freedom of inquiry and expression. As a public institution of higher education in the state of Washington, Cascadia Community College recognizes and supports the following principles regarding freedom of expression.

Individual freedom of expression is a fundamental tenet of any free and democratic society.

Freedom of expression shall be interpreted to include all forms of written and oral expression, and all forms of dramatic and artistic expression.

The college is dedicated to upholding the individual freedom of expression as it is protected by the First Amendment to the Constitution of the United States and that no act shall be undertaken by the college to abridge that freedom.

As an institution dedicated to freedom of thought and expression, the college shall support expression of divergent viewpoints in order to foster broad-mindedness and a willingness to learn from others.

In keeping with these principles and the college's right to place reasonable restraints on the time, place and manner of expression, the college shall observe the following general guidelines and appropriate general procedures to ensure the responsible exercise of freedom of expression.

(1) **Freedom of expression.** It is the right of any member of the college community to express any point of view and to be free from harassment in such expression. It is the responsibility of those expressing opinions to respect the rights and property of others, to refrain from disrupting the normal operations of the college and to maintain lawful conduct.

The right of free speech and expression does not include activity that may endanger the safety of any member of this college community or visitors, or damage any of the facilities. Moreover, modes of expression (including electronic transmissions) that are unlawful or indecent or that are grossly offensive on matters such as race, color, national and ethnic origin, religion, sexual orientation, gender, age, disability, or veteran status are inconsistent with accepted norms of conduct of the college and are subject to the sanctions described in the Code of student conduct and disciplinary procedures (chapter 132Z-115 WAC).

(2) **Sponsoring organizations.** It is the right of all recognized college organizations and units to sponsor lecturers, entertainers, or exhibitions of their choice as approved by the college. It is the responsibility of the sponsoring organization or unit to make adequate preparation as deemed necessary by the college for the orderly conduct of such events.

(3) **Campus speakers.** Student organizations officially recognized by the college may invite speakers to the campus to address their own membership and other interested students and employees if suitable space is available and there is no interference with the regularly scheduled program of the college. Although properly allowed by the college, the appearance of such speakers on the campus implies neither approval nor disapproval of them or their viewpoints. In the case of speakers who are candidates for political office, equal opportunities shall be available to opposing candidates if desired by them. Political candidates seeking to use facilities to discuss campaign issues with nonstudents shall pay normal facility rental fees. Speakers are subject to the normal considerations for law and order and to the specific limitations imposed by the state constitution, which prohibits state support for religious worship, exercise or instruction.

In order to ensure an atmosphere of open exchange and to ensure that the educational objectives of the college are not obscured, the president, in a case attended by strong emotional feeling, may prescribe conditions for the conduct of the meeting, such as requiring that a designated member of the faculty serve as chair, or requiring permission for comments and questions from the floor. Likewise, the president may encourage the appearance of one or more additional speakers at any meeting or at a subsequent meeting so that other points of view may be expressed. The president may designate representatives to recommend conditions such as time, manner, and place for the conduct of particular meetings.

(4) **Audiences.** It is the right of all members of the college community to attend any public event sponsored by any recognized campus organization or unit, once applicable admission fees have been paid. It is the responsibility of all who attend such events to respect the rights and property of others.

(5) **Facilities.** It is the right of any recognized campus organization or unit to schedule the use of appropriate college facilities free from discrimination on the basis of viewpoints

to be expressed at the event; it is the responsibility of such an organization or unit to provide sufficient evidence to the college administration that adequate provision has been made for the health, safety and welfare of the general public.

(6) **Distribution of information.** Handbills, leaflets, newspapers and similar materials may be sold or distributed free of charge by any student or students, or by members of recognized student organizations, or by college employees during their off-work hours on or in college facilities at locations specifically designated by the director of communications and marketing provided such distribution or sale does not interfere with the ingress or egress of persons or interfere with the free flow of vehicular or pedestrian traffic.

Such handbills, leaflets, newspapers and related matter must bear identification as to the publishing agency and distributing organization or individual.

All nonstudents shall register with the director of communications and marketing prior to the distribution of any handbill, leaflet, newspaper or related matter. Such distribution or sale must not interfere with the free flow of vehicular or pedestrian traffic.

Any person or persons who violates these provisions will be subject to disciplinary action.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903. 05-06-003, § 132Z-112-020, filed 2/17/05, effective 3/20/05. Statutory Authority: RCW 28B.50.140. 00-20-037, § 132Z-112-020, filed 9/28/00, effective 10/29/00.]

WAC 132Z-112-030 Student records—Family educational rights and privacy. Cascadia Community College implements this policy in compliance with the Family Educational Rights and Privacy Act (20 U.S.C. & 1232g) and its implementing regulation (34 C.F.R. § 99). The act requires Cascadia Community College to provide students with access to their own education records, to permit students to challenge their records on the grounds that they are inaccurate, misleading, or otherwise in violation of the student's privacy or other right, to obtain written consent before releasing certain information and to notify the student of these rights.

(1) Definitions. For the purposes of this policy, the following definitions of terms apply:

(a) "Student" means any individual who is or has been in attendance at Cascadia Community College and for whom the college maintains education records.

(b) "Education records" are defined as those records, files and documents (in handwriting, print, tapes, film, microfiche or other medium) maintained by Cascadia Community College, which contain information directly related to the individual student. Education records include only the following:

(i) Records pertaining to admission, advisement, registration, grading, and progress toward a degree.

(ii) Assessment information used for advisement purposes.

(iii) Information concerning payment of fees.

(iv) Financial aid information.

(v) Information regarding students participating in student government or athletics.

(c) "Directory Information" means the student's name, address, telephone number, date and place of birth, major field of study, eligibility for and participation in officially

recognized activities, organizations, and sports, weight and height of members of athletic teams, dates of attendance, honor roll, degrees and awards received, and the most recent previous educational agency or institution attended by the student. Directory information may be disclosed at the discretion of the college and without the consent of the student unless he or she elects to prevent disclosure as provided for in this chapter.

(d) "Written consent" means a written authorization for disclosure of student education records which:

- (i) Is signed;
- (ii) Is dated;
- (iii) Specifies the records to be disclosed; and
- (iv) Specifies to whom disclosure is authorized.

(e) "Personally identifiable" means data or information which includes: The name of the student, the student's parent(s), or other family members; a personal identifier such as the student's Social Security number or student number; or a list of personal characteristics which would make the student's identity easily traceable.

(2) Annual notification of rights. Cascadia Community College will notify students of their rights under the Family Educational Rights and Privacy Act of 1974 by publication in the college catalog and schedule of classes. The college shall make available upon request a copy of the policy governing release of student records.

(3) Procedure to inspect education records.

(a) Students may inspect and review their education records upon request to the vice-president for student success.

(b) Students must submit to the vice-president a written request which identifies as precisely as possible the record or records he or she wishes to inspect.

(c) The vice-president for student success or designee will make the needed arrangements for access as promptly as possible and notify the student of the time and place where the records may be inspected. Access must be given within forty-five days or less from the receipt of the request.

(4) Disclosure of education records.

(a) In addition to "directory information," the college may, at its discretion, make disclosures from education records of students to the following listed parties:

(i) College officials, including administrative, clerical staff and faculty. Access or release of records to the above is permissible only when the information is required for advisement, counseling, recordkeeping, reporting, or other legitimate educational interest consistent with their specific duties and responsibilities;

(ii) Officials of another school in which the student seeks or intends to enroll;

(iii) Authorized federal, state, or local officials as required by law;

(iv) Authorized parties in connection with financial aid for which the student has applied or received;

(v) Appropriate parties in a health or safety emergency;

(vi) Accrediting organizations to carry out their functions; and

(vii) To comply with a judicial order or a lawfully issued subpoena.

(b) The college shall not permit access to or the release of education records or personally identifiable information

contained therein, other than "directory information," without the written consent of the student, to any party other than the above.

(c) Education records released to third parties shall be accompanied by a statement indicating that the information cannot be subsequently released in a personally identifiable form to other parties without obtaining the consent of the student. The college is not precluded from permitting third-party disclosure to other parties listed in (a)(i) through (vii) of this subsection.

(5) Limits on rights to review and inspect and obtain copies of education records.

(a) When a record contains information about more than one student, the student may inspect and review only the records which relate to him or her.

(b) Cascadia Community College reserves the right to refuse to permit a student to inspect the following records:

(i) The financial statement of the student's parents;

(ii) Letters and statements of recommendation for which the student has waived his or her right of access, or which were placed in file before January 1, 1975;

(iii) Records connected with an application to attend Cascadia Community College if that application was denied; and

(iv) Those records which are excluded from the Federal Rights and Privacy Act definition of education records.

(c) Cascadia Community College reserves the right to deny transcripts or copies of records not required to be made available by the Federal Educational Rights and Privacy Act in any of the following situations:

(i) The student has an unpaid financial obligation to the college;

(ii) There is an unresolved disciplinary action against the student.

(6) Record of request and disclosures.

(a) The college shall maintain a record of requests for and disclosures of personally identifiable information in the education records of each student. The record maintained under this section shall be available for inspection and review.

(b) The college shall maintain the record with the education records of the student as long as the records are maintained.

(c) The disclosure record must include:

(i) The names of parties who have received personally identifiable information;

(ii) The interest the parties had in requesting or obtaining the information; and

(iii) The names and interests of additional parties to which the reviewing educational agency or institution may disclose or redisclose the information.

(d) The following parties may inspect the record of requests and disclosures relating to a student:

(i) The student;

(ii) The college officials who are responsible for the custody of the records; and

(iii) Persons authorized to audit the recordkeeping procedures of the college.

(e) The college is not required to maintain a record if the request was from, or the disclosure was to:

(i) The student;

- (ii) A school official;
- (iii) A party with written consent from the student; or
- (iv) A party seeking directory information.

(7) Disclosure of directory information. Directory information may be disclosed at the discretion of the college and without the consent of the student unless the student elects to prevent disclosure by filing a written request to prevent disclosure. The request continues in effect according to its terms unless it is revoked in writing by the student.

(8) Requests for corrections, hearings, adding statements to education records. Students have the right to request to have records corrected that they believe are inaccurate, misleading, or in violation of their privacy rights. Following are the procedures for the correction of records:

(a) A student must submit a written request to amend his or her education record to the vice-president for student success or designee. The request must identify the part of the record he/she wants changed and specify why the record is believed to be inaccurate, misleading or in violation of his or her privacy or other rights.

(b) The vice-president for student success or designee will forward the request to the appropriate college official for determination.

(c) A student whose request for amendment of his or her education record has been denied may request a hearing by submitting a written request to the vice-president for student success within ten days following the denial. The written request must be signed by the student and shall indicate the reasons why the records should be amended. The vice-president for student success or designee shall convene a hearing to include the student and the appropriate college official, and shall notify the student of the hearing within thirty days after receipt of a properly filed request. In no case will the notification be less than ten days in advance of the date, time and place of the hearing.

(d) The hearing shall be a brief adjudicative proceeding as provided in RCW 34.05.482 and 34.05.485 through RCW 34.05.494 and shall be conducted by the vice-president for student success or designee. At the hearing, the student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised in the original request to amend the student's education records.

(e) The vice-president for student success or designee will prepare a written decision, within thirty days after the conclusion of the hearing, based solely on the evidence presented at the hearing. The decision will include a summary of the evidence presented and the reasons for the decision. A copy of the decision shall be made available to the student.

(f) If the vice-president for student success or designee decides the information is inaccurate, misleading, or in violation of the student's right of privacy, the custodian of the record will amend the record and notify the student, in writing, that the record has been amended.

(g) If the vice-president for student success or designee decides that the challenged information is not inaccurate, misleading, or in violation of the student's right of privacy, he/she will notify the student in writing that the student has a right to place in the record a rebuttal statement commenting on the challenged information and/or a statement setting forth reasons for disagreeing with the decision.

(h) The student's rebuttal statement will be maintained as part of the student's education records as long as the contested portion is maintained. If the contested portion of the education record is disclosed, the statement will also be disclosed.

(9) Fees for copies. Copies of student records shall be made at the expense of the requesting party at actual cost for copying as posted at the admissions/records office.

(10) Waiver. A student may waive any of his or her rights under this chapter by submitting a written, signed, and dated waiver to the office of the vice-president for student success. Such a waiver shall be specific as to the records and persons or institutions covered. A waiver continues in effect according to its terms unless revoked in writing which is signed and dated.

(11) Type and location of education records.

Types	Custodian
Admission records	Vice-president for student success or designee
Cumulative academic records, testing records, registration and payment of tuition records	Vice-president for student success or designee
Student government	Vice-president for student learning or designee
Participation records in student government	Vice-president for student learning or designee
Financial aid records	Vice-president for student success or designee
Student employment records	Director of human resources
Athletic participation records	Vice-president for student success or designee

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903. 05-06-003, § 132Z-112-030, filed 2/17/05, effective 3/20/05. Statutory Authority: RCW 28B.50.140. 00-20-037, § 132Z-112-030, filed 9/28/00, effective 10/29/00.]

WAC 132Z-112-040 Financial assistance for students—Scholarships. Detailed information concerning the criteria, eligibility, procedures for application, and other information regarding scholarships at Cascadia Community College is located in the office of student financial services on the Cascadia Community College campus.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903. 05-06-003, § 132Z-112-040, filed 2/17/05, effective 3/20/05. Statutory Authority: RCW 28B.50.140. 00-20-037, § 132Z-112-040, filed 9/28/00, effective 10/29/00.]

WAC 132Z-112-050 Financial assistance for students—Financial aid. Federal, state, and private financial aid applications and information may be obtained at the following address:

Student Financial Services Office
Cascadia Community College
18345 Campus Way N.E.
Bothell, WA 98011

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903. 05-06-003, § 132Z-112-050, filed 2/17/05, effective 3/20/05. Statutory Authority: RCW 28B.50.140. 00-20-037, § 132Z-112-050, filed 9/28/00, effective 10/29/00.]

WAC 132Z-112-060 Student rights. Cascadia Community College endorses the following rights for each student within the limitations of statutory law and college policy, which are deemed necessary to achieve the mission, values and learning outcomes of the college.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903, 05-06-003, § 132Z-112-060, filed 2/17/05, effective 3/20/05.]

WAC 132Z-112-070 Academic freedom. Students are guaranteed rights of free inquiry, expression and peaceful assembly upon and within college facilities that are generally open and available to the public.

Students are free to pursue appropriate learning objectives from among the college's curricula, programs and services, subject to the limitations of RCW 28B.50.090 (3)(b).

Students have the right to a learning environment, which is free from unlawful discrimination and sexual harassment.

Students are protected from academic evaluation, which is arbitrary, prejudice or capricious, and are responsible for meeting the standards of academic performance established by each of their instructions.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903, 05-06-003, § 132Z-112-070, filed 2/17/05, effective 3/20/05.]

WAC 132Z-112-080 Nondiscrimination. Students have the right not to be discriminated against on the basis of age, color, creed, disability, gender, marital status, national origin or ancestry, race, religion, sexual orientation or veteran status.

Students who believe they have been discriminated against are encouraged to follow the Cascadia conflict resolution procedure described herein.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903, 05-06-003, § 132Z-112-080, filed 2/17/05, effective 3/20/05.]

WAC 132Z-112-090 Due process. Students have the right to due process. No disciplinary action may be imposed without notice to the accused of the nature of the charges. A student accused of violating code of conduct is entitled to procedural due process as set forth in these provisions.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903, 05-06-003, § 132Z-112-090, filed 2/17/05, effective 3/20/05.]

WAC 132Z-112-100 Right of assembly. Students have the right of assembly upon college facilities that are generally available to the public provided such assemblies:

- (1) Are conducted in an orderly manner;
- (2) Do not unreasonably interfere with vehicular or pedestrian traffic;
- (3) Do not unreasonably interfere with classes, scheduled meetings or ceremonies, or regular functions of the college;
- (4) Do not cause destruction or damage to college property.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903, 05-06-003, § 132Z-112-100, filed 2/17/05, effective 3/20/05.]

WAC 132Z-112-110 Conflict resolution. Students have the right to express and resolve misunderstandings, alleged violation of a college policy, procedure or regulation or alleged inequitable treatment, or retaliation according to

the stated conflict resolution procedures set forth in these provisions.

Conflict resolution procedure.

The purpose of the student conflict resolution procedure is to provide each student with an informal or formal option to express and resolve any misunderstanding and to address the perception of unfair treatment by a faculty member, or member of the college staff. First, the student may follow an informal procedure. Second, if the informal procedure does not resolve the issue/concern, the student may initiate a formal procedure and request a hearing before the conflict resolution council.

The student may waive his or her right to have the matter resolved informally. In either case, the student must initiate proceedings with the college within twenty days of the occurrence which gave rise to the concern/issue. The conflict resolution procedure promotes constructive dialogue and understanding. Most concerns/issues are resolved by direct, courteous and respectful communication.

Concerns/issues excluded: Students may not use this process for resolving disciplinary outcomes of summary suspension or other disciplinary procedures; grade appeals; for challenging federal and state laws; or those rules and regulations, policies and procedures adopted by the college, and/or the state board for community and technical colleges.

Students should follow the following conflict resolution procedure to resolve concerns/issues as described in the purpose section:

Informal conflict resolution procedure.

A student who believes a college faculty or staff member has treated him or her unfairly or has a concern/issue shall first discuss it directly with the individual. The purpose of this discussion should be to clarify the perceived concern/issue and request specific action.

If the concern/issue is not resolved or if the student is apprehensive about talking directly with the staff or faculty member involved, the student may request an appointment with the appropriate dean for student learning for issues relating to classroom instruction, or administrator or designee for issues relating to staff. The dean or administrator may act as a mediator to resolve the concern/issue in a prompt and fair manner.

Formal conflict resolution procedure.

(1) In the event resolution is not achieved through the informal procedure, the student may initiate a formal procedure by writing a letter to the appropriate dean for student learning for issues related to classroom instruction or the appropriate unit administrator or designee for issues related to staff within twenty working days after the incident. The letter must include a:

- Detailed description of the issue/concern, including dates and times;
- Summary of the actions taken by the student to resolve the concern/issue; and
- Proposed solution.

(2) The appropriate unit administrator or designee shall attempt to resolve the concern/issue by:

Serving as an intermediary between the student and the faculty or staff member and after a review of the facts of the situation and talking with the appropriate faculty or staff

involved, the unit administrator or designee will decide how to best resolve the issue/concern promptly and fairly.

The unit administrator or designee handling the case will notify the student in writing of the decision within ten working days.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903, 05-06-003, § 132Z-112-110, filed 2/17/05, effective 3/20/05.]

WAC 132Z-112-120 Student responsibilities. Students who choose to attend Cascadia Community College also choose to actively participate in the learning process offered by the college. The college is responsible for providing an educational environment rich in the high quality resources needed by students to attain their learning outcomes and achieve their educational goals. In return, the college has the expectation that each student will assume the responsibility to:

- Become knowledgeable of the college's mission, values and vision; adhere to policies, practices, procedures, and rules of the college and its departments;
- Practice personal and academic integrity;
- Respect the dignity, rights and property of all persons;
- Strive to learn from difference in people, ideas and opinions;
- Participate actively in the learning process, both in and out of the classroom;
- Participate actively in the advising process;
- Refrain from and discourage behaviors that undermine the respect all Cascadia community members deserve;
- Abide by the standards set forth in the student right and responsibilities.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903, 05-06-003, § 132Z-112-120, filed 2/17/05, effective 3/20/05.]

Chapter 132Z-115 WAC

CODE OF STUDENT CONDUCT AND DISCIPLINARY PROCEDURES

WAC

132Z-115-005	Student code of conduct.
132Z-115-010	Purpose of the disciplinary system.
132Z-115-020	Jurisdiction and authority for student discipline.
132Z-115-050	Free movement on campus.
132Z-115-060	Standards of classroom behavior.
132Z-115-080	Definitions.
132Z-115-090	Code of conduct.
132Z-115-110	Disciplinary terms.
132Z-115-120	Procedures for resolving disciplinary violations.
132Z-115-130	Summary suspension.
132Z-115-140	Cascadia conflict resolution council.
132Z-115-150	Conflict resolution council procedural guidelines.
132Z-115-160	Loss of eligibility in college activities.
132Z-115-180	Appeals.
132Z-115-190	Transcript notations.
132Z-115-200	Refunds and access.
132Z-115-240	Hazing.

WAC 132Z-115-005 Student code of conduct. Introduction and overview.

Admission to Cascadia Community College carries with it the expectation that students will conduct themselves as responsible members of the college community. Cascadia has adopted policies governing student conduct, including disciplinary procedures and procedures for resolving conflicts related to student discipline. The student conduct system is

designed to protect the rights of each individual to support the community values and to assist students in conducting themselves as responsible members of the college community.

Students are strongly encouraged to become familiar with the code of conduct to enhance understanding of disciplinary procedures and appeal processes. Violations of the code of conduct are treated seriously and may result in disciplinary actions that may include suspension and/or dismissal. Details of the disciplinary process are provided in the sections that follow and students should read those sections carefully. To assist in understanding the process, the following overview is provided:

Violation or alleged violation of code of conduct.

- If a student is found to have violated, or alleged to have violated, the college's code of conduct, the matter is normally referred to the vice-president for student success or designee. In some cases, a matter will not be referred to the vice-president if another staff member has successfully addressed the violation with the student in question.

- If a matter is referred to the vice-president or designee, he/she investigates the allegation, meets with the student, and makes a determination about the validity of the complaint and the severity of the offense. The vice-president may dismiss the charge or impose a sanction which may result in a warning, reprimand, probation, suspension, summary suspension or expulsion.

Appeals process.

- If a student wishes to appeal the decision of the vice-president or designee, he/she must submit a written request for an appeal within ten calendar days of the notice of the disciplinary action.

- Appeals are heard by the conflict resolution council (CRC), a body consisting of one administrator, one faculty member, and one student. The CRC will arrange for a hearing as soon as possible. Students may bring witnesses to this hearing.

- After hearing the appeal, the CRC makes a recommendation to the college president. The president may uphold the recommendation of the CRC or change the decision. The president's decision is not subject to appeal.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903, 05-06-003, § 132Z-115-005, filed 2/17/05, effective 3/20/05.]

WAC 132Z-115-010 Purpose of the disciplinary system. Participating in a community requires that individuals depend upon the knowledge, integrity, and decency of others. In turn, the best communities help individuals mold habits and values that will enable them to achieve the highest personal satisfaction, including the satisfaction associated with helping to create a better global community. Cascadia Community College is maintained by the state of Washington for the provision of programs of instruction in higher education and related community services. Like any other institution having its own special purposes, the college must maintain conditions conducive to the effective performance of its functions. Consequently, it has special expectations regarding the conduct of the various participants in the college community.

This *Code of Student Conduct* protects the college's commitment to excellence and equity, and affirms institutional values.

The student conduct system was created to protect the rights of each individual, to support the community values and to assist students in modifying their behavior to become responsible members of the community. Admission to the college carries with it the expectation that the student will obey appropriate laws, will comply with the rules of the college and its departments, and will maintain a high standard of integrity and honesty. If a student does not accept her/his responsibilities within the college community, corrective action must be taken. This is accomplished through an educational process, with the goal of providing a learning environment where students can grow and learn respect for others, to understand how their behaviors affect the community and to change inappropriate behaviors. Sanctions for violations of college rules or conduct that interferes with the operation of college affairs will be dealt with by the college. In the case of minors, misconduct may be referred to parents or legal guardians.

Students registered via the Washington on-line virtual campus will follow the policies and procedures that govern student conduct, disciplinary policies and procedures for resolving conflicts regarding student conduct which are in place at the enrolling college. Washington on-line virtual campus students are responsible for being familiar with the student rights and responsibilities and code of conduct at the enrolling college(s).

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903. 05-06-003, § 132Z-115-010, filed 2/17/05, effective 3/20/05. Statutory Authority: RCW 28B.50.140. 00-20-037, § 132Z-115-010, filed 9/28/00, effective 10/29/00.]

WAC 132Z-115-020 Jurisdiction and authority for student discipline. All rules in this chapter concerning student rights and responsibilities, conduct and discipline apply to every student enrolled at the college whenever the student is engaged in or present at a college-related activity whether occurring on or off college facilities, and to an enrolled student whose behavior is detrimental to the college wherever occurring.

The board of trustees, acting pursuant to RCW 28B.50.140(14), has delegated by written order to the president of the college the authority to administer disciplinary action. Pursuant to this authority, the president, or designee, shall be responsible for the administration of the disciplinary procedures provided for herein. However, all disciplinary action in which there is a recommendation that a student be suspended shall be reviewed by the president or his/her designee.

Jurisdiction and authority for discipline of students registered through the Washington on-line virtual campus will rest with the enrolling college; however, administrators and faculty of the teaching college and/or Washington on-line virtual campus staff may be included in investigations prior to final decisions regarding a discipline situation. All appeals will be handled according to the policies of the enrolling college.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903. 05-06-003, § 132Z-115-020, filed 2/17/05, effective 3/20/05. Statutory Authority: RCW 28B.50.140. 00-20-037, § 132Z-115-020, filed 9/28/00, effective 10/29/00.]

WAC 132Z-115-050 Free movement on campus. The president or designee is authorized in the instance of any event that he or she deems impedes the movement of persons or vehicles or which he/she deems to disrupt the ingress or egress of persons from the college facilities, to prohibit the entry of, or withdraw the license of, or privileges of, a person or persons or any group of persons to enter onto or remain upon any portion of the college facility.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903. 05-06-003, § 132Z-115-050, filed 2/17/05, effective 3/20/05. Statutory Authority: RCW 28B.50.140. 00-20-037, § 132Z-115-050, filed 9/28/00, effective 10/29/00.]

WAC 132Z-115-060 Standards of classroom behavior. (1) Admission to Cascadia Community College carries with it the presumption that students will conduct themselves with high standards of academic honesty and integrity.

Hallmarks of academic integrity include:

Submitting work that reflects original thoughts and ideas;

Clearly citing other people's work when using it to inform your own;

Seeking permission to use other people's creative work;

Fully contributing to group work and projects.

Students who choose not to uphold the hallmarks of integrity are therefore considered engaging in academic dishonesty.

Academic dishonesty is defined as any act of course-related dishonesty including, but not limited to, cheating or plagiarism.

(a) Cheating includes, but is not limited to, using, or attempting to use, any material, assistance, or source which has not been authorized by the instructor to satisfy any expectation or requirements in an instructional course, or obtaining, without authorization, test questions or answers or other academic material that belong to another.

(b) Plagiarism includes, but is not limited to, using another person's ideas, words or other work in an instructional course without properly crediting that person.

(c) Academic dishonesty also includes, but is not limited to, submitting in an instructional course either information that is known to be false (while concealing that falsity) or work that is substantially the same as that previously submitted in another course (without the current instructor's approval).

(d) Academic dishonesty also includes taking credit for the work of others when working in groups or otherwise.

Any act of cheating and/or plagiarism is strictly prohibited and will be subject to disciplinary action. Where suspected violations of the academic honesty policy occur, appropriate procedures are designed to protect the academic process and integrity while ensuring due process. Students are expected to adhere to guidelines on academic honesty as stated by individual instructors in their course syllabi, provided those guidelines do not contradict policies and procedures established in the student code of conduct. All documented violations of the academic honesty policy will be reported to the vice-president for student success, who shall maintain a record of violations. Students who violate the academic honesty policy twice will be placed on disciplinary probation. Students who violate the academic honesty policy

subsequently (a third time) will be placed on disciplinary suspension.

(2) Classroom conduct: Instructors have the authority to take whatever summary actions may be necessary to maintain order and proper conduct in the classroom and to maintain the effective cooperation of the class in fulfilling the objectives of the course.

(a) Any student who, by any act of misconduct, substantially disrupts any college class by engaging in any conduct that renders it difficult or impossible to maintain the decorum of the faculty member's class shall be subject to disciplinary action.

(b) The instructor of each course offered by the college is authorized to take such steps as may be necessary to preserve order and to maintain the effective cooperation of the class in fulfilling the objectives of the course; provided that a student shall have the right to appeal such disciplinary action to the vice-president for student success; provided further that, in the event a student appeals to the vice-president for student success the decision by the instructor to remove a student from a single class session, the decision of the vice-president on the appeal shall be final and not subject to appeal to the conflict resolution council.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903, 05-06-003, § 132Z-115-060, filed 2/17/05, effective 3/20/05. Statutory Authority: RCW 28B.50.140, 00-20-037, § 132Z-115-060, filed 9/28/00, effective 10/29/00.]

WAC 132Z-115-080 Definitions. The definitions set forth in this section shall apply throughout this chapter. The following words and phrases shall mean:

(1) "Academic dishonesty" means any course-related dishonesty including, but not limited to, cheating or plagiarism.

(2) "Aggravated violation" means a violation that resulted or foreseeably could have resulted in significant damage to persons or property or which otherwise posed a substantial threat to the stability and continuance of normal college or college-sponsored activities.

(3) "Assembly" means any activity engaged in by two or more persons the object of which is to gain publicity, advocate a view, petition for a cause, or disseminate information to any persons or group of persons.

(4) "Board of trustees" means the five member trustees of Cascadia Community College appointed by the governor of the state of Washington, District No. 30.

(5) "College" means Cascadia Community College which includes the main campus, off-campus classes, and all of its areas, elements, and programs.

(6) "College community" means all college employees designated as members of the administration by the board of trustees and students.

(7) "College facilities or premises" means buildings or grounds owned, leased, operated, controlled, or supervised by the college, including all appurtenances affixed thereon or attached thereto.

(8) "College president" means the chief executive officer of the college appointed by the board of trustees.

(9) "Controlled substances" means the definition of controlled substances as defined in RCW 69.50.201 as now law or hereafter amended.

(10) "Disciplinary action" means an oral or written warning, reprimand, probation, summary suspension, suspension and/or expulsion, of a student for the violation of a rule adopted under this policy.

(11) "Disciplinary official" means the president, Cascadia student conflict resolution council, the vice-president for student success or designee.

(12) "Disciplinary warning" means oral or written notice of violation of college rules.

(13) "Disciplinary probation" means formal action placing conditions upon the student's continued attendance because of violation of college rules or failure to satisfy the college's expectations regarding conduct.

(14) "Drugs" means a narcotic drug as defined in RCW 69.50.101, a controlled substance as defined in RCW 69.50.-201 through 69.50.212, or a legend drug as defined in RCW 69.41.010.

(15) "Employee" means any classified or exempt staff, faculty, administrator, student worker or volunteer.

(16) "Expulsion" means dismissal from the college and termination of student status, for an indefinite period of time or permanently, for violation of college rules or for failure to meet the college standards of conduct.

(17) "Group" means persons who are associated with each other but who have not complied with college requirements for registration or organization.

(18) "Harassment" means any malicious act, which causes harm to any person's physical or mental well-being.

(19) "Hazing" means any method of initiation into a student organization, association, or living group, or any pastime or amusement engaged in with respect to an organization or living group that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm to any student or other person attending Cascadia Community College.

(20) "Liquor" means the definition of liquor as contained within RCW 66.04.010.

(21) "Reprimand" means formal action after censoring a student for violation of college rules for failure to satisfy the college's expectations regarding conduct.

(22) "Restitution" means repayment to the college or to an affected party for damages resulting from a violation of this code.

(23) "Sexual harassment" means unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct directed at persons because of his/her sex where:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's academic standing or employment; or

(b) Submission to or rejection of such conduct by an individual is used as the basis for academic decisions or employment affecting such individual; or

(c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or learning environment. Examples of behaviors that may constitute harassment include, but are not limited to:

(i) Unwelcome verbal harassment of a sexual nature or abuse;

(ii) Unwelcome pressure for sexual activity;

(iii) Unwelcome sexually motivated or inappropriate patting, pinching or physical contact;

(iv) Unwelcome sexual behavior or words, including demands for sexual favors accompanied by implied or overt threats concerning an individual's educational status;

(v) Unwelcome behavior, verbal or written words or symbols directed at an individual because of gender;

(vi) The use of authority to emphasize the sexuality of a student in a manner that prevents or impairs the student's full enjoyment of educational benefits, climate or opportunities.

(24) "Student" means any person who is enrolled at the college and for whom the college maintains current educational records, as defined by the Family Rights and Privacy Act of 1974, and related regulations.

(25) "Summary suspension" means temporary dismissal from the college and temporary termination of a student's status for a period of time not to exceed ten days.

(26) "Suspension" means temporary dismissal from the college and temporary termination of student status for violation of college rules or regulations or for failure to meet college standards of conduct.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903. 05-06-003, § 132Z-115-080, filed 2/17/05, effective 3/20/05. Statutory Authority: RCW 28B.50.140. 00-20-037, § 132Z-115-080, filed 9/28/00, effective 10/29/00.]

WAC 132Z-115-090 Code of conduct. Cascadia Community College expects that its students while within college facilities or attending a college-sponsored activity, will adhere to high standards of honor and good citizenship and that they will conduct themselves in a responsible manner that reflects credit on themselves and the college. The following misconduct is subject to disciplinary action:

(1) Intentionally or recklessly endangering, threatening, or causing physical harm to any person or oneself, or intentionally or recklessly causing reasonable apprehension of such harm.

(2) Assault, physical abuse, verbal abuse, threat(s), intimidation, harassment, or other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of any student, any college officer or employee, or any other person who is on college property or is participating in a college activity.

(3) Sexual assault or sexual harassment as defined in college policy under Article 6, "Equal Opportunity, Nondiscrimination and Nonharassment."

(4) Intentionally or recklessly interfering with normal college or college-sponsored activities including, but not limited to, studying, teaching, research, college administration, or fire, police, or emergency services.

(5) Unauthorized entry or use of college facilities.

(6) Knowingly violating the term of any disciplinary sanction imposed in accordance with the code.

(7) Intentionally and substantially interfering with the freedom of expression of others.

(8) Intentional violations of college rules, policies, and procedures or any action listed above, or prohibited conduct by a student's guest.

(9) Smoking in classrooms, the library and other areas so posted by college officials.

(10) The possession, use, sale or distribution of any alcoholic beverage or illegal drug on the college campus; or while attending a college-sponsored event on noncollege property.

(11) Engaging in lewd, indecent, or obscene behavior.

(12) Where the student presents an imminent danger to college property or to himself or herself or other students or persons in college facilities on or off campus, or to the education process of the college.

(13) Academic dishonesty, including cheating, plagiarism, or knowingly furnishing false information to the college.

(14) The intentional making of false statements or filing of false charges against the college and members of the college community.

(15) Forgery, alteration, or misuse of college documents, records, funds, or instruments of identification.

(16) Attempted or actual damage to, or theft or misuse of, real or personal property or money of:

(a) The college or state;

(b) Any student or college officer, employee, or organization; or

(c) Any other person or organization lawfully present on college property, or in possession of such property or money after it has been stolen.

(17) Failure to comply with the direction of college officials acting in the legitimate performance of their duties.

(18) Possession of firearms, licensed or unlicensed, (except where possessed by commissioned police officers as prescribed by law) explosives, dangerous chemicals or other dangerous weapons or instrumentalities on campus, except for authorized purposes.

(19) Falsely setting off or otherwise tampering with any emergency safety equipment, alarm or other device established for the safety of individuals and/or college facilities.

(20) Hazing in any form as described in WAC 132Z-115-240 and RCW 28B.10.900.

(21) Refusal to provide positive identification and evidence of student enrollment to any college employee in the lawful discharge of his/her duties.

(22) Failure to comply with the college's Information Technology Acceptable Use Policy (BP1: 4.10 through 4.16), and/or misuse of computing equipment and services and facilities, including use of electronic mail and the internet.

(23) Violation of parking regulations.

(24) Behavior that disrupts classes, laboratories, offices, services, meetings or ceremonies including:

(a) Threats of disruption and bomb threats;

(b) Damaging, defacing or abusing college facilities, equipment or property.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903. 05-06-003, § 132Z-115-090, filed 2/17/05, effective 3/20/05. Statutory Authority: RCW 28B.50.140. 00-20-037, § 132Z-115-090, filed 9/28/00, effective 10/29/00.]

WAC 132Z-115-110 Disciplinary terms. The definitions set forth in this section apply throughout.

(1) **Disciplinary warning** means oral or written notice of violation of college rules.

(2) **Reprimand** means formal action after censuring a student for violation of college rules for failure to satisfy the

college's expectations regarding conduct. Reprimands are made in writing to the student by the disciplinary official. A reprimand indicates to the student that continuation or repetition of the specific conduct involved or other misconduct will result in one or more serious disciplinary actions described below.

(3) **Disciplinary probation** means formal action placing conditions upon the student's continued attendance because of violation of college rules or failure to satisfy the college's expectations regarding conduct. The disciplinary official placing the student on probation will specify, in writing, the period of probation and the conditions, such as limiting the student's participation in extracurricular activities. Disciplinary probation warns the student that any further misconduct will automatically raise the question of dismissal from the college. Disciplinary probation may be for a specified term or for an indefinite period which may extend to graduation or other termination of the student's enrollment in the college.

(4) **Summary suspension** means temporary dismissal from the college and temporary termination of a student's status for a period of time not to exceed ten days which occurs prior to invocation of the formal hearing procedures specified in these rules due to a necessity to take immediate disciplinary action, where a student presents an imminent danger to the college property, or to himself or herself or other students or persons in college facilities on or off campus, or to the educational process of the college. (Pursuant to the summary suspension procedures set forth in WAC 132Z-115-120 (6) through (13).)

(5) **Suspension** means temporary dismissal from the college and temporary termination of student status for violation of college rules or for failure to meet college standards of conduct.

(6) **Expulsion** means dismissal from the college and termination of student status for violation of college rules or for failure to meet the college standards of conduct for an indefinite period of time or permanently.

(7) **Restitution** means repayment to the college or to an affected party for damages resulting from a violation of this code.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903. 05-06-003, § 132Z-115-110, filed 2/17/05, effective 3/20/05. Statutory Authority: RCW 28B.50.140. 00-20-037, § 132Z-115-110, filed 9/28/00, effective 10/29/00.]

WAC 132Z-115-120 Procedures for resolving disciplinary violations. (1) Any infractions of college rules, policies or regulations may be referred by any college faculty or staff member to the vice-president for student success or designee. The vice-president for student success may delegate this responsibility to a member of his/her staff, and he/she may also establish committees or other hearing bodies to advise or act for him/her in disciplinary matters.

(2) In order that any informality in disciplinary proceedings not mislead a student as to the seriousness of the matter under consideration, the student involved shall be informed at the initial conference or hearing of the sanctions that may be involved.

(3) Upon initiation of disciplinary proceedings, the vice-president for student success or designee shall provide written notification to the student, either in person or by delivery

via certified mail to the student's last known address, specifying the violations with which the student is charged. The vice-president for student success or designee shall set a time and place for meeting with the student to inform the student of the charges, the evidence supporting the charges, and to allow the student an opportunity to be heard regarding the charges and evidence.

(4) After considering the evidence in a case and interviewing the student or students involved, the vice-president for student success or designee may take any of the following actions:

(a) Terminate the proceeding, exonerating the student or students;

(b) Dismiss the case after whatever counseling and advice may be appropriate (not subject to the appeals rights provided in this code);

(c) Dismiss the case after verbally admonishing the student (not subject to the appeals rights provided in this code);

(d) Direct the parties to make a reasonable attempt to achieve a mediated settlement;

(e) Impose other disciplinary sanctions directly, subject to the student's right of appeal as described in this chapter. The student shall be notified in writing of the action taken except that disciplinary warnings may be given verbally;

(f) Refer the matter to the conflict resolution council requesting their recommendation to the president for appropriate action. The student shall be notified in writing that the matter has been referred to the conflict resolution council.

(5) This section shall not be construed as preventing the appropriate official from summarily suspending a student.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903. 05-06-003, § 132Z-115-120, filed 2/17/05, effective 3/20/05. Statutory Authority: RCW 28B.50.140. 00-20-037, § 132Z-115-120, filed 9/28/00, effective 10/29/00.]

WAC 132Z-115-130 Summary suspension. (1) If the vice-president for student success or his/her designee(s) has cause to believe that any student:

(a) Has committed a felony; or

(b) Has violated any provision of this chapter; and

(c) Presents an imminent danger either to himself or herself or other persons on the college campus or to the educational process, that student shall be summarily suspended and shall be notified by certified mail at the student's last known address, or shall be personally served. Summary suspension is appropriate only where (c) of this subsection can be shown, either alone or in conjunction with (a) or (b) of this subsection.

(2) If the vice-president for student success, following the conclusion of the summary suspension proceedings, finds that there is probable cause to believe that:

The student against whom specific violations of law or of provisions of this chapter are alleged has committed one or more of such violations; and

That summary suspension of said student is necessary for the protection of the student, other students or persons on college facilities, college property, the educational process, or to restore order to the campus; and

Such violation or violations of the law or of provisions of this chapter constitute grounds for disciplinary action, then the vice-president may, with the written approval of the pres-

ident, continue to suspend such student from the college and may impose any other disciplinary action as appropriate.

(3) A student who is suspended or otherwise disciplined pursuant to the above rules shall be provided with a written copy of the vice-president for student success' findings of fact and conclusions, as expressly concurred to by the president, which constituted probable cause to believe that the conditions for summary suspension existed. The student suspended pursuant to the authority of this rule shall be served a copy of the notice of suspension by personal service or by certified mail to the student's last known address within three working days following the conclusion of the summary suspension hearing. The notice of suspension shall state the duration of the suspension or nature of other disciplinary action and the conditions under which the suspension may be terminated.

(4) The vice-president for student success is authorized to enforce the suspension of the summarily suspended student in the event the student has been served pursuant to the notice requirement and fails to appear at the time designated for the summary suspension proceeding.

(5) Any student aggrieved by an order issued at the summary suspension proceeding may appeal to the conflict resolution council. No such appeal shall be entertained, however, unless:

The student has first appeared at the student hearing in accordance with WAC 132Z-115-110(4);

(a) The student has been officially notified of the outcome of the hearing;

(b) Summary suspension or other disciplinary sanction has been upheld; and

(c) The appeal conforms to the standards set forth in WAC 132Z-115-180. The conflict resolution council shall, within five working days, conduct a formal hearing in the manner described in WAC 132Z-115-150.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903. 05-06-003, § 132Z-115-130, filed 2/17/05, effective 3/20/05. Statutory Authority: RCW 28B.50.140. 00-20-037, § 132Z-115-130, filed 9/28/00, effective 10/29/00.]

WAC 132Z-115-140 Cascadia conflict resolution council. The Cascadia conflict resolution council will hear cases referred under this code.

(1) The Cascadia conflict resolution council, convened by the vice-president for student success or designee for disciplinary action, will hear and make recommendations to the president on all disciplinary cases referred to it or appealed to it by students. The conflict resolution council will be composed of the following persons:

(a) A member appointed by the president of the college who shall serve as the chair;

(b) A member of the faculty, appointed by faculty;

(c) A student, appointed by the student body president.

(2) None of the above-named persons shall sit on any case in which he or she has been or will be a complainant or witness, in which he or she has a direct or personal interest, or in which he or she has acted previously in an advisory or official capacity. Decisions in this regard, including the selection of alternates, shall be made by the conflict resolution council as a whole. The conflict resolution council chairperson will be elected by the members of the conflict resolution council.

(3) The conflict resolution council may recommend to the president that the student involved:

(a) Be exonerated with all proceedings terminated and with no sanctions imposed;

(b) Be disqualified from participation in any school-sponsored events or activities;

(c) Be given a disciplinary warning;

(d) Be given a reprimand;

(e) Be placed on disciplinary probation;

(f) Be responsible for restitution for damages resulting from the violation;

(g) Be given a suspension;

(h) Be expelled.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903. 05-06-003, § 132Z-115-140, filed 2/17/05, effective 3/20/05. Statutory Authority: RCW 28B.50.140. 00-20-037, § 132Z-115-140, filed 9/28/00, effective 10/29/00.]

WAC 132Z-115-150 Conflict resolution council procedural guidelines. The chair of the conflict resolution council shall set the time, place and available seating capacity for a hearing.

All proceedings of the conflict resolution council will be conducted with reasonable dispatch and terminated as soon as fairness to all parties involved permits.

The conflict resolution council chairperson shall enforce general rules of procedures for conducting hearings consistent with these procedural guidelines.

The student shall be given notice of the date, time and place of the hearing, the charges, a list of witnesses who will appear, and a description of any documentary or other physical evidence that will be presented at the hearing. This notice shall be given to the student in writing and shall be provided in sufficient time to permit him/her to prepare a defense.

The student or his/her representative shall be entitled to hear and examine the evidence against him or her and be informed of the identity of its sources; and shall be entitled to present evidence in his or her own behalf and question witnesses as to factual matters. The student shall be able to obtain information or to request the presence of witnesses or the production of other evidence relevant to the issues at the hearing.

Hearings conducted by the conflict resolution council may be held in closed session at the discretion of the council, although the student involved may request that the council allow the student to invite particular persons or requests an open hearing. If at any time during the conduct of the hearing persons allowed by the council to be invited are disruptive of the proceedings, the chairperson of the conflict resolution council may exclude such persons from the hearing room.

Only those matters presented at the hearing, in the presence of the student involved, will be considered in determining whether the student is guilty of the misconduct charged, but the student's past record of conduct may be taken into account in formulating the conflict resolution council's recommendation for disciplinary action.

The failure of a student to cooperate with the hearing procedures, however, shall not preclude the conflict resolution council from making its findings of fact, reaching conclusions and imposing sanctions. Failure of the student to

cooperate may be taken into consideration by the conflict resolution council in recommending penalties.

The student may be represented by counsel and/or accompanied by an advisor of his/her choice. If counsel is present for the student, the college may also have counsel present to assist the council.

An adequate summary of the proceedings will be kept. As a minimum, such summary would include a tape recording of testimony. Such record will be available for inspections and copying in the office of the vice-president for student success during regular business hours, unless barred by state or federal law.

The student will be provided with a copy of the findings of fact and the conclusions of the conflict resolution council.

If the council's proceedings were to hear a student's appeal, the council's recommendation shall be forwarded to the president, along with findings of fact, conclusions of law and any commentary on witnesses' credibility.

The president of the college or his/her designated representative, after reviewing the case, including the decision by the vice-president for student success, the report and recommendation of the conflict resolution council and any statement filed by the student, and the whole record before the conflict resolution council or such portions of it as are cited by the parties, shall either indicate his/her approval of the original decision by the vice-president for student success by sustaining the decision, shall give directions as to what other disciplinary action shall be taken by modifying the decision, or shall nullify previous sanctions imposed by reversing the decision. The president or designee shall then notify the vice-president for student success, the student, and the conflict resolution council. The president's decision shall be final.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903. 05-06-003, § 132Z-115-150, filed 2/17/05, effective 3/20/05. Statutory Authority: RCW 28B.50.140. 00-20-037, § 132Z-115-150, filed 9/28/00, effective 10/29/00.]

WAC 132Z-115-160 Loss of eligibility in college activities. Any student found to have violated the standards of student conduct or chapter 69.41 RCW shall, in lieu of or in addition to, any other disciplinary action which may be imposed, be disqualified from participation in any school-sponsored events or activities.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903. 05-06-003, § 132Z-115-160, filed 2/17/05, effective 3/20/05. Statutory Authority: RCW 28B.50.140. 00-20-037, § 132Z-115-160, filed 9/28/00, effective 10/29/00.]

WAC 132Z-115-180 Appeals. Disciplinary actions subject to appeal under this code may be appealed as described below. Notice of an appeal by a student shall be made in writing and addressed to the vice-president for student success within ten calendar days of the college's giving of the notice of the disciplinary action.

Disciplinary action by a faculty member or other college staff member may be appealed to, and shall be reviewed by, the vice-president for student success.

Disciplinary action by the vice-president for student success, the vice-president for student learning, or designee may be appealed to, and shall be reviewed by, the conflict resolution council.

Upon reviewing conflict resolution council recommendations, the president shall either sustain the original disciplinary action, or shall give directions as to what other disciplinary action shall be taken by modifying the action, or shall nullify previous sanctions by reversing the original disciplinary action. The president's action shall be final.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903. 05-06-003, § 132Z-115-180, filed 2/17/05, effective 3/20/05. Statutory Authority: RCW 28B.50.140. 00-20-037, § 132Z-115-180, filed 9/28/00, effective 10/29/00.]

WAC 132Z-115-190 Transcript notations. A temporary encumbrance may be placed on a student's college records by the vice-president for student success while disciplinary proceedings are pending.

Permanent notation of disciplinary action will be made on the transcript whenever a student is expelled.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903. 05-06-003, § 132Z-115-190, filed 2/17/05, effective 3/20/05. Statutory Authority: RCW 28B.50.140. 00-20-037, § 132Z-115-190, filed 9/28/00, effective 10/29/00.]

WAC 132Z-115-200 Refunds and access. There shall be no refund of tuition and/or fees for the quarter in which disciplinary action is taken.

A student suspended on the basis of conduct which disrupted the orderly operation of the campus or any facility of the district, may be denied access to all or any part of the campus or other facility.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903. 05-06-003, § 132Z-115-200, filed 2/17/05, effective 3/20/05. Statutory Authority: RCW 28B.50.140. 00-20-037, § 132Z-115-200, filed 9/28/00, effective 10/29/00.]

WAC 132Z-115-240 Hazing. Cascadia Community College hereby adopts rules to regulate hazing activities within college sponsored organizations, associations, or living groups.

(1) Hazing is prohibited. Hazing is defined as any method of initiation into a student organization, association, or living group, or any pastime or amusement engaged in with respect to such an organization or living group that causes, or is likely to cause bodily danger or physical harm, or serious mental or emotional harm, to any student or other person attending any institution of higher education or post-secondary institution.

(2) Penalties: Any organization, association, or living group that knowingly permits hazing shall:

(a) Be liable for harm caused to persons or property resulting from hazing.

(b) Be denied recognition by Cascadia Community College as an official organization, association or student living group on the Cascadia Community College campus. If the organization, association or student living group is a corporation, whether for profit or nonprofit, the individual directors of the corporation may be held individually liable for damages.

(c) A person who participates in the hazing of another shall forfeit any entitlement to state-funded grants, scholarships or awards for not less than one academic quarter and up to and including permanent forfeiture, based upon the seriousness of the violation(s).

(d) Hazing violations are also misdemeanors punishable under state criminal law according to RCW 9A.20.021.

(e) The student code of Cascadia Community College may be applicable to hazing violations.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903. 05-06-003, § 132Z-115-240, filed 2/17/05, effective 3/20/05.]

Chapter 132Z-133 WAC ORGANIZATION

WAC

132Z-133-010 Organization—Operation—Information.

WAC 132Z-133-010 Organization—Operation—Information. (1) Organization. Cascadia Community College is established in Title 28B RCW as a public institution of higher education. The college is governed by a five-member board of trustees, appointed by the governor. The board employs a president, who acts as the chief executive officer of the college. The president establishes the structure of the administration.

(2) Operation. The administrative office is located at the following address:

Cascadia Community College
18345 Campus Way N.E.
Bothell, WA 98011

The office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays.

(3) Information. Additional information about Cascadia Community College District 30 may be obtained by calling 425-352-8000, or by addressing a request to:

Cascadia Community College
18345 Campus Way N.E.
Bothell, WA 98011

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903. 05-06-003, § 132Z-133-010, filed 2/17/05, effective 3/20/05. Statutory Authority: Chapter 28B.50 RCW. 96-14-098, § 132Z-133-010, filed 7/2/96, effective 8/2/96.]

Chapter 132Z-134 WAC DESIGNATION OF RULES COORDINATOR

WAC

132Z-134-010 Rules coordinator.

WAC 132Z-134-010 Rules coordinator. The rules coordinator for Cascadia Community College as designated by the president is:

The Executive Assistant to the President
Cascadia Community College
18345 Campus Way N.E.
Bothell, WA 98011

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903. 05-06-003, § 132Z-134-010, filed 2/17/05, effective 3/20/05. Statutory Authority: Chapter 28B.50 RCW. 96-14-098, § 132Z-134-010, filed 7/2/96, effective 8/2/96.]

Chapter 132Z-276 WAC ACCESS TO PUBLIC RECORDS

WAC

132Z-276-030 Description of central and field organization of Cascadia Community College District No. 30.
132Z-276-070 Office hours.
132Z-276-120 Protection of public records.

WAC 132Z-276-030 Description of central and field organization of Cascadia Community College District No. 30. (1) Cascadia Community College is a state agency established and organized under the authority of chapter 28B.50 RCW for the purpose of implementing the educational goals established by the legislature in RCW 28B.50.020. The administrative office of the district is located on the college campus within the county of King, Washington. The college campus likewise comprises the central headquarters for all operations of the district.

(2) The district is operated under the supervision and control of a board of trustees. The board of trustees consists of five members appointed by the governor. The board of trustees normally meets at least once each month, as provided in WAC 132Z-104-010. The board of trustees employs a president, an administrative staff, instructors, and other employees. The board of trustees takes such actions and promulgates such rules, and policies in harmony with the rules established by the state board for community and technical colleges, as are necessary to the administration and operation of the district.

(3) The president of the district is responsible to the board of trustees for the operation and administration of the district.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903. 05-06-003, § 132Z-276-030, filed 2/17/05, effective 3/20/05. Statutory Authority: Chapter 28B.50 RCW. 96-14-098, § 132Z-276-030, filed 7/2/96, effective 8/2/96.]

WAC 132Z-276-070 Office hours. Public records shall be available for inspection and copying during the customary office hours of the district. For purposes of this chapter, the customary office hours shall be from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays and holidays established by the college calendar.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903. 05-06-003, § 132Z-276-070, filed 2/17/05, effective 3/20/05. Statutory Authority: Chapter 28B.50 RCW. 96-14-098, § 132Z-276-070, filed 7/2/96, effective 8/2/96.]

WAC 132Z-276-120 Protection of public records. Requests for public records shall be made at the administrative office of the district at Cascadia Community College, 18345 Campus Way N.E., Bothell, WA 98011. Public records and a facility for their inspection will be provided by the public records officer. Such records shall not be removed from the place designated. Copies of such records may be arranged according to the provisions of WAC 132Z-276-090.

[Statutory Authority: Executive Order 97-02, RCW 28B.10.902 and 28B.20.903. 05-06-003, § 132Z-276-120, filed 2/17/05, effective 3/20/05. Statutory Authority: Chapter 28B.50 RCW. 96-14-098, § 132Z-276-120, filed 7/2/96, effective 8/2/96.]

Title 136 WAC

COUNTY ROAD ADMINISTRATION BOARD

Chapters

136-01	Organization and operation of county road administration board.
136-11	Maintenance management.
136-28	Standard of good practice—Cooperative procedures for processing of county road accident reports.

Chapter 136-01 WAC

ORGANIZATION AND OPERATION OF COUNTY ROAD ADMINISTRATION BOARD

WAC

136-01-030	Meetings and voting procedures.
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WAC 136-01-030 Meetings and voting procedures.

Regular public meetings of the county road administration board shall be held quarterly, at times and locations set by the board. At the summer meeting, the board shall elect a chair, a vice-chair, and a second vice-chair who shall hold office until the next summer meeting. Additional meetings necessary to discharge the business of the board may be called from time to time by the chair. Each member of the board shall be entitled to one vote. No proxies shall be allowed. All questions shall be decided by majority vote. A quorum of five members of the board shall be required to vote or conduct any board business.

[Statutory Authority: Chapter 36.79 RCW. 05-11-036, § 136-01-030, filed 5/11/05, effective 6/11/05; 99-01-021, § 136-01-030, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.050 and [36.78].060. 92-13-036 (Order 86), § 136-01-030, filed 6/10/92, effective 7/11/92. Statutory Authority: RCW 36.78.070. 90-07-071 (Order 71), § 136-01-030, filed 3/21/90, effective 4/21/90; Order 9, § 136-01-030, filed 10/22/68.]

Chapter 136-11 WAC

MAINTENANCE MANAGEMENT

WAC

136-11-010	Purpose and authority.
136-11-020	Goal.
136-11-030	Objectives.
136-11-040	Maintenance management requirements.
136-11-050	Annual review.
136-11-060	County road administration board assistance.

WAC 136-11-010 Purpose and authority. The laws of the state of Washington provide in RCW 36.80.030 that the county engineer shall have supervision, under the direction of the county legislative authority, of maintaining all county roads of the county. The purpose of maintenance management is to recognize that many road maintenance activities can be planned, scheduled and accomplished in a predetermined manner. RCW 36.78.121 directs the county road administration board, or its successor entity, to establish a standard of good practice for maintenance of transportation system assets.

[Statutory Authority: Chapter 36.79 RCW. 05-22-060, § 136-11-010, filed 10/31/05, effective 12/1/05; 99-01-021, § 136-11-010, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.070 and 36.79.060. 96-17-013, § 136-11-010, filed 8/12/96, effective 9/12/96. Statutory Authority: Chapter 36.78 RCW. 80-02-105 (Order 37), § 136-11-010, filed 1/24/80.]

WAC 136-11-020 Goal. This chapter is intended to establish basic management principles for road maintenance activities and to set forth specific goals and objectives relative to the results to be achieved.

[Statutory Authority: Chapter 36.79 RCW. 05-22-060, § 136-11-020, filed 10/31/05, effective 12/1/05; 99-01-021, § 136-11-020, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.070 and 36.79.060. 96-17-013, § 136-11-020, filed 8/12/96, effective 9/12/96. Statutory Authority: Chapter 36.78 RCW. 80-02-105 (Order 37), § 136-11-020, filed 1/24/80.]

WAC 136-11-030 Objectives. (1) To preserve the investment made in roads, bridges, and roadway appurtenances.

(2) To create stronger accountability to ensure that cost-effective maintenance and preservation is provided for transportation facilities.

[Statutory Authority: Chapter 36.79 RCW. 05-22-060, § 136-11-030, filed 10/31/05, effective 12/1/05; 99-01-021, § 136-11-030, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.070 and 36.79.060. 96-17-013, § 136-11-030, filed 8/12/96, effective 9/12/96. Statutory Authority: Chapter 36.78 RCW. 80-02-105 (Order 37), § 136-11-030, filed 1/24/80.]

WAC 136-11-040 Maintenance management requirements. (1) An inventory of significant maintenance features (physical assets), as determined by the county, shall be maintained.

(2) Maintenance management is based upon work activities. Work activity guidelines shall be defined, by each county, for the significant activities representing the maintenance work to be performed. Definitions shall include an activity code, title, description, work unit and inventory unit.

(3) An annual work program and budget shall be prepared. The activity-based work program and budget shall summarize the kinds and amounts of work planned and the costs of the planned work.

(4) The resources needed to accomplish the annual work program shall be documented.

(5) Work scheduling procedures shall be documented.

(6) Work accomplishment and expenditure shall be monitored.

[Statutory Authority: Chapter 36.79 RCW. 05-22-060, § 136-11-040, filed 10/31/05, effective 12/1/05.]

WAC 136-11-050 Annual review. On an annual basis, beginning in calendar year 2008, the county road administration board shall review compliance with the requirements of WAC 136-11-040 and report the results to the transportation commission or its successor entity.

[Statutory Authority: Chapter 36.79 RCW. 05-22-060, § 136-11-050, filed 10/31/05, effective 12/1/05.]

WAC 136-11-060 County road administration board assistance. To assist each county to meet its requirements, the county road administration board shall provide maintenance management support and training. The county road administration board will also provide to counties, upon request, technical assistance related to defining, developing,

operating, managing and utilizing maintenance management procedures.

[Statutory Authority: Chapter 36.79 RCW. 05-22-060, § 136-11-060, filed 10/31/05, effective 12/1/05.]

Chapter 136-28 WAC

STANDARD OF GOOD PRACTICE—COOPERATIVE PROCEDURES FOR PROCESSING OF COUNTY ROAD ACCIDENT REPORTS

WAC

136-28-010	Purpose and authority.
136-28-020	Procedure.
136-28-030	Coding detail.

WAC 136-28-010 Purpose and authority. RCW 36.78.070(1) authorizes the county road administration board to establish standards of good practice for the administration of county roads and the efficient movement of people and goods over county roads. In order to implement the requirement of the National Highway Safety Act of 1966 that requires all states, in cooperation with their various local governments, to collect, compile and make reports to the National Highway Traffic Safety Administration in each state, the county road administration board has acted to coordinate the activities of the county engineers and the Washington state department of transportation. Each county engineer is to cooperate in this effort by following the procedure outlined below.

[Statutory Authority: Chapter 36.79 RCW. 05-11-037, § 136-28-010, filed 5/11/05, effective 6/11/05; 04-05-001, § 136-28-010, filed 2/4/04, effective 3/6/04; 99-01-021, § 136-28-010, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.070 and 36.79.060. 96-17-013, § 136-28-010, filed 8/12/96, effective 9/12/96. Statutory Authority: RCW 36.78.070. 90-17-076 (Order 79), § 136-28-010, filed 8/16/90, effective 9/16/90; Order 5, § 136-28-010, filed 4/23/68.]

WAC 136-28-020 Procedure. The Washington state department of transportation (WSDOT) collects collision reports from all law enforcement agencies and receives collision reports from individual drivers. Periodically, the WSDOT will send or deliver to the county engineer's office in each county reports with attached county location coding forms (CLCF), concerning collisions occurring on county roads in that county.

The engineer will analyze the report and complete the CLCF. For those collisions that the county engineer verifies did occur in his/her jurisdiction, only the completed CLCF will be returned to the WSDOT. However, if the engineer determines that the collision did not occur on a roadway in the county's jurisdiction, he/she shall complete the bottom portion of the CLCF and return it and the collision report to the WSDOT.

[Statutory Authority: Chapter 36.79 RCW. 05-11-037, § 136-28-020, filed 5/11/05, effective 6/11/05. Statutory Authority: RCW 36.78.070 and 36.79.060. 96-17-013, § 136-28-020, filed 8/12/96, effective 9/12/96. Statutory Authority: RCW 36.78.070. 90-17-076 (Order 79), § 136-28-020, filed 8/16/90, effective 9/16/90; Order 5, § 136-28-020, filed 4/23/68.]

WAC 136-28-030 Coding detail. (1) The county number shall be that particular number assigned to each county by the state office of financial management for county identification purposes.

(2) The county road log number shall be that particular five-digit number, including both leading and trailing zeros if applicable, assigned to each county road according to the county's latest county road log. No local names or numbers or other nomenclature shall be used in coding.

(3) The milepost shall be determined as accurately as practicable from a comparison of information on the collision report with the latest county road log.

(4) Collisions at an intersection with a state highway will be coded by the state department of transportation.

(5) To ensure uniformity, collisions at the intersection of any two county roads shall be coded to a road in the following priority order:

- The road with the higher functional class;
- The road that is the through route;
- The road with the lower road number.

(6) Collisions on roads and/or at intersections with dual city-county or county-county responsibilities shall be coded in general accordance with the procedures outlined herein based on a mutual understanding between the several jurisdictions involved.

[Statutory Authority: Chapter 36.79 RCW. 05-11-037, § 136-28-030, filed 5/11/05, effective 6/11/05; 99-01-021, § 136-28-030, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.070 and 36.79.060. 96-17-013, § 136-28-030, filed 8/12/96, effective 9/12/96. Statutory Authority: RCW 36.78.070. 90-17-076 (Order 79), § 136-28-030, filed 8/16/90, effective 9/16/90; Order 5, § 136-28-030, filed 4/23/68.]

Title 137 WAC CORRECTIONS, DEPARTMENT OF

Chapters

137-25	Serious infractions—Total and partial confinement facilities.
137-28	Prisons—Discipline.
137-48	Inmate mail and communications.
137-56	Community residential programs, work/training release.
137-70	Reimbursement for criminal justice costs and contingency plan expenses.

Chapter 137-25 WAC

SERIOUS INFRACTIONS—TOTAL AND PARTIAL CONFINEMENT FACILITIES

WAC

137-25-010	Application of chapter.
137-25-020	Definitions.
137-25-030	Serious infractions.

WAC 137-25-010 Application of chapter. The definitions and serious infractions described herein apply to offenders committed to both full and partial confinement facilities.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. 05-24-009 and 06-02-038, § 137-25-010, filed 11/28/05 and 12/28/05, effective 5/1/06.]

WAC 137-25-020 Definitions. For the purposes of this chapter, the following words have the following meanings:

Abusive sexual contact - an incident in which the contact occurs without his/her consent or he/she was unable to consent or refuse. Abusive sexual contact includes one or more of the following behaviors:

- Intentional touching, either directly or through the clothing of the genitalia, anus, groin, breast, inner thigh, or buttocks of the victim. It does not include kicking, grabbing or punching genitals when the intent is to harm or debilitate rather than to sexually exploit.

Adult correctional institution and institution - a facility identified in RCW 72.01.050(2) and any similar facility hereinafter established.

Aggravated assault - an assault resulting in physical injury and requiring medical care (see definition of medical care).

Assault - a physical attack upon the body of another person. The attack may be made with any instrument including, but not limited to, weapons, body parts, food products, or bodily secretions.

Attempted suicide - an unsuccessful attempt to kill oneself as determined by a medical or mental health professional.

Attempt - putting forth an effort to commit any infraction shall be considered the same as commission of the infraction. However, attempted aggravated assault shall be considered an attempted assault.

Bodily harm - physical pain or injury, illness, or impairment of physical condition.

Cell tag - if contraband or other violation is discovered in an area under control of the inmate (such as within the confines or contents of a cell), the contraband or other violation shall be constructively attributed to the inmate(s) assigned to that area, unless the inmate(s) can establish a lack of involvement in the infraction at the disciplinary hearing.

Conspiracy - an agreement between two or more persons to commit an infraction. Conspiracy to commit an infraction shall be considered the same as commission of the infraction.

Deputy secretary - the deputy secretary of the office of correctional operations of the Washington state department of corrections, or the deputy secretary's designee.

Discovery - when a staff member discovers that an infraction has occurred or when an investigation into the incident is concluded.

Earned time - means that portion of time an offender is eligible to earn for program participation approved by the classification process and consistent with his/her case management plan.

Earned release time - means the combined earned time and good conduct time credit an offender is eligible to earn off the minimum term established by the indeterminate sentence review board or the sentencing court.

Good conduct time credits - that portion of an inmate's potential reduction to minimum term which is authorized by RCW 9.95.070 and 72.09.130 and which may be lost by receiving serious infractions.

Hearing officer - staff member(s) designated by the superintendent or hearings program administrator to conduct disciplinary hearings.

Infraction - commission of, attempt to commit, or conspiracy with another to commit any violation of rules as enumerated in this code.

Aiding or abetting another to commit an infraction will be considered the same as commission of the infraction.

Infraction review officer - staff member(s) designated by the superintendent to review a serious infraction.

Lesser included offense - any infraction that must necessarily have been committed in order to commit another infraction.

Medical care - any care conducted in a medical facility/treatment center by medical staff to treat a documented, physical injury, including, but not limited to, bandaging, suturing, surgery, etc. An examination conducted by medical staff to determine whether an injury has been sustained shall not be considered medical care.

Mental health professional - an individual with a unique set of knowledge, skills and abilities that makes him/her competent in either development, research, administration, assessment, prevention, treatment, education or training aimed at affecting the onset, occurrence, and maintenance of mental, behavioral and in some cases physical health disorders.

Mitigating factors - factors to be considered by the infracting officer in deciding whether to charge a #328 general infraction rather than a #728 serious infraction. Also, factors to be considered by the infraction review officer, hearings officer, and superintendent for the purpose of deciding whether a #728 serious infraction should be reduced to a #328 general infraction. Mitigating factors may include the seriousness of the sexually explicit material involved, whether the inmate has been convicted of a sexually motivated crime, the treatment needs of the inmate, the prior history of similar behavior, and the source of the material.

Possession - established when an item(s) is found on a person or in an area which is under the control of the individual(s) charged.

Promptly - to act as soon as reasonably possible, consistent with institutional goals of safety, security, and rehabilitation.

Secretary - the secretary of the Washington state department of corrections, or the secretary's designee.

Sexual harassment - any word, action, gesture or other behavior that is sexual in nature and that would be offensive to a reasonable person.

Sexually explicit - means a depiction of one of the following:

- One of the participants in the sexual act is, or appears to be, nonconsenting;

- One of the participants in the sexual act appears to be forceful, threatening, or violent;

- One of the partners in the sexual act is dominating one of the other participants and one of the individuals is obviously in a submissive role or one of the participants is degraded, humiliated, or willingly engages in behavior that is degrading or humiliating;

- One of the participants in the sexual act is a minor, or appears to be a minor, or a minor alone is depicted in a sexually suggestive way;

- Actual penetration, be it penile/vaginal-oral, penile-anal, or penile-vaginal; digital-anal; digital-vaginal; or insertion of any inanimate object in the vaginal or anal cavity, and

the depiction in the context presented is deemed to be a threat to legitimate penological objectives;

- Any bodily excretory function which is sexual in nature;
- Bestiality, sadomasochistic behavior, bondage; or
- Material reasonably deemed to be a threat to legitimate penological objectives.

Staff member - for purposes of this chapter includes employees of the department of corrections, contract employees, and volunteers.

Superintendent - superintendent of an adult correctional institution or the superintendent's designee.

Working days - Monday through Friday, excluding weekends and holidays.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. 05-24-009 and 06-02-038, § 137-25-020, filed 11/28/05 and 12/28/05, effective 5/1/06.]

WAC 137-25-030 Serious infractions.

Category A

501 - Committing homicide.
502 - Aggravated assault on another offender.
507 - Committing a felony.
511 - Aggravated assault on a visitor or community member.
521 - Taking or holding any person hostage.
550 - Escape or attempted escape.
601 - Possession, manufacture, or introduction of an explosive device or any ammunition, or any components of an explosive device or ammunition.
602 - Possession, manufacture, or introduction of any gun, firearm, weapon, sharpened instrument, knife, or poison or any component thereof.
603 - Possession, introduction, use or transfer of any narcotic, controlled substance, illegal drug, unauthorized drug, mind altering substance, or drug paraphernalia.
604 - Aggravated assault on a staff member.
611 - Nonconsensual sexual assault on a staff member.
612 - Attempted nonconsensual sexual assault of staff.
613 - Abusive sexual contact with staff.
635 - Nonconsensual sexual assault on another offender.
636 - Attempted nonconsensual sexual assault of another offender.
637 - Abusive sexual contact with another offender.
650 - Rioting.
651 - Inciting others to riot.

Category B

762 - Failing to comply with DOSA requirements.

Category B - Level 1

504 - Engaging in sexual acts with others within the facility with the exception of approved conjugal visits.
553 - Setting a fire.
560 - Unauthorized possession of items or materials likely to be used in an escape attempt.
588 - Causing a valid and documented threat of transmission of a contagious disease to any person due to intentional, negligent or reckless action.
633 - Assault on another offender.
704 - Assault on a staff member.
711 - Assault on a visitor or community member.

Category B - Level 1

744 - Making a bomb threat.

Category B - Level 2

505 - Fighting with any person.
556 - Refusing to submit or cooperate in a search when ordered to do so by a staff member.
607 - Refusing to submit to a urinalysis and/or failure to provide a urine sample when ordered to do so by a staff member within the allotted time frame.
608 - Refusing or failing to submit to a breathalyzer or other standard sobriety test when ordered to do so by a staff member.
609 - Refusing or failing to submit to testing required by policy, statute, or court order, such as DNA blood tests when ordered to do so by a staff member.
652 - Engaging in or inciting a group demonstration.
655 - Making intoxicants, alcohol, controlled substances, narcotics, or possession of ingredients, equipment, items, formulas, or instructions that are used in making intoxicants, alcohol, controlled substances, or narcotics.
682 - Engaging in or inciting an organized work stoppage.
707 - Possession, introduction, or transfer of any alcoholic or intoxicating beverage.
716 - Unauthorized use of prescribed or over the counter medication.
736 - Possession, manufacture or introduction of unauthorized keys.
750 - Indecent exposure.
752 - Receiving a positive test for use of unauthorized drugs, alcohol, or other intoxicants.
830 - Any escape from work release with voluntary return within 24 hours.

Category B - Level 3

503 - Extortion, blackmail, demanding or receiving money or anything of value in return for protection against others, or under threat of informing.
506 - Threatening another with bodily harm or with any offense against another person, property, or family.
509 - Refusing a direct order by any staff member to proceed to or disperse from a particular area.
525 - Violating conditions of a furlough.
557 - Refusing to participate in an available education or work program or other mandatory programming assignment.
558 - Interfering with staff members, medical personnel, fire fighters, or law enforcement personnel in the performance of their duties.
600 - Tampering with, damaging, blocking, or interfering with any locking or security device.
605 - Impersonating any staff member, contracted staff member, volunteer, other offenders or visitor.
653 - Causing an inaccurate count or interfering with count by means of unauthorized absence, hiding, concealing oneself, or other form of deception or distraction.
654 - Counterfeiting, forgery, altering, falsification, or unauthorized reproduction of any document, article, or identification, money, security, or official paper.
660 - Unauthorized possession of money or other negotiable instruments the value of which is five dollars or more.

Category B - Level 3

709 - Out-of-bounds: Being in another offender's cell or other area in the facility where not assigned or authorized; being in an area in the facility with one or more offenders without authorization.
738 - Possession of clothing of a staff member.
739 - Possession of personal information about currently employed staff, contractors, or volunteers, or their immediate family members, not voluntarily given to the offender by the individual involved; including, but not limited to: Social Security numbers, unpublished home addresses or telephone numbers, driver's license numbers, medical, personnel, financial, or real estate records, bank or credit card numbers, or other like information not authorized by the court or the superintendent.
745 - Refusing a transfer to another institution.
746 - Engaging in or inciting an organized hunger strike.
777 - Causing injury to another person by resisting orders, resisting assisted movement or physical efforts to restrain.
813 - Unauthorized/unaccounted time in the community or being in an unauthorized location in the community.
814 - Violation of an imposed special condition.
831 - While in work release, failure to return from an authorized sign out.
879 - Operating a motor vehicle without permission.

Category C - Level 1

508 - Throwing objects, materials, substances, or spitting at staff, visitors, or other offenders.
517 - Committing a misdemeanor.
555 - Theft of property or possession of stolen property.
563 - Making a false fire alarm or tampering with, damaging, blocking, or interfering with fire alarms, fire extinguishers, fire hoses, fire exits, or other fire fighting equipment or devices.
610 - Unauthorized accumulation of prescribed medication greater than a single or daily dose.
620 - Receipt or possession of contraband during participation in off-grounds or outer perimeter activity or work detail.
659 - Sexual harassment.
663 - Using physical force, intimidation or coercion against any person.
702 - Possession, manufacture or introduction of an unauthorized tool.
708 - Organizing or participating in unauthorized group activity or meeting.
714 - Giving, selling, borrowing, lending, or trading money or anything of value to, or accepting or purchasing money or anything of value from, another offender or that offender's friend(s) or family, the value of which is ten dollars or more.
717 - Causing a threat of injury to another person by resisting orders, resisting assisted movement or physical efforts to restrain.
720 - Flooding a cell or other area of the institution/facility.
724 - Refusing a cell or housing assignment.
734 - Participating or engaging in the activities of any unauthorized club, organization, gang or security threat group; or wearing or possessing the symbols of an unauthorized club, organization, gang or security threat group.

Category C - Level 2

552 - Causing an innocent person to be penalized or proceeded against by providing false information.
554 - Mutilating, altering, defacing, or destroying any item the value of which is ten dollars or more and that is not the personal property of the offender.
559 - Gambling; possession of gambling paraphernalia.
656 - Giving, receiving, or offering any person a bribe or anything of value for an unauthorized favor or service.
706 - Giving false information when proposing a release plan.
710 - Being tattooed while incarcerated, tattooing another, or possessing tattoo paraphernalia.
718 - Use of mail or telephone in violation of court order or local, state, or federal law.
726 - Telephoning or sending written communication or otherwise initiating communication with a minor without the approval of that minor's parent or guardian.
727 - Telephoning or sending written communications to any person contrary to previous written warnings and/or documented disciplinary action.
728 - Possession of any written photographic or hand drawn material, that depicts sexually explicit acts as defined in department policy.
740 - Fraud, embezzlement, or obtaining goods, services, money, or anything of value under false pretense.
742 - A pattern of creating a false emergency by feigning illness.
778 - Providing a false and/or adulterated urine sample.

Category C - Level 3

551 - Providing false information to the disciplinary hearings officer or on a disciplinary appeal.
606 - Possession, introduction, or transfer of any tobacco, tobacco products, matches, or tobacco paraphernalia.
657 - Being found guilty of four or more general infractions arising out of separate incidents within a 90-day period.
658 - Failing to comply with any administrative or post-hearing sanction imposed for committing any general or serious infraction.
662 - Soliciting goods or services for which the provider would expect payment when the offender knows or should know that no funds are available to pay for those goods or services.
712 - Attempted suicide as determined by mental health staff.
713 - Self-mutilation or self-harm.
741 - Theft of food the value of which is more than five dollars.
755 - Misuse or waste of issued supplies, goods, services, or property the replacement value of which is ten dollars or more.
810 - Willful failure to seek/maintain employment or training oneself financially or being terminated from a job for negative or substandard performance.
811 - Entering into an unauthorized contract.
812 - Failure to report/turn in all earnings income.
854 - Destroying or damaging state property, or the property of another person.
861 - Performing or taking part in an unauthorized marriage.

Definitions: Attempting to commit or aiding another person to commit a serious infraction - such action shall be considered the same as commission of the offense itself.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. 05-24-009 and 06-02-038, § 137-25-030, filed 11/28/05 and 12/28/05, effective 5/1/06.]

Chapter 137-28 WAC PRISONS—DISCIPLINE

WAC

137-28-160
137-28-260

Definitions.
Serious infractions.

WAC 137-28-160 Definitions. For the purposes of this chapter, the following words have the following meanings:

Abusive sexual contact - an incident in which the contact occurs without his/her consent or he/she was unable to consent or refuse. Abusive sexual contact includes one or more of the following behaviors:

- Intentional touching, either directly or through the clothing of the genitalia, anus, groin, breast, inner thigh, or buttocks of the victim. It does not include kicking, grabbing or punching genitals when the intent is to harm or debilitate rather than to sexually exploit.

Adult correctional institution and institution - a facility identified in RCW 72.01.050(2) and any similar facility hereinafter established.

Aggravated assault - an assault resulting in physical injury and requiring medical care (see definition of medical care).

Assault - a physical attack upon the body of another person. The attack may be made with any instrument including, but not limited to weapons, body parts, food products or bodily secretions.

Attempted suicide - an unsuccessful attempt to kill oneself as determined by a medical or mental health professional.

Attempt - putting forth an effort to commit any infraction shall be considered the same as commission of the infraction. However, attempted aggravated assault shall be considered an attempted assault.

Bodily harm - physical pain or injury, illness, or impairment of physical condition.

Cell tag - if contraband or other violation is discovered in an area under control of the inmate (such as within the confines or contents of a cell), the contraband or other violation shall be constructively attributed to the inmate(s) assigned to that area, unless the inmate(s) can establish a lack of involvement in the infraction at the disciplinary hearing.

Conspiracy - an agreement between two or more persons to commit an infraction. Conspiracy to commit an infraction shall be considered the same as commission of the infraction.

Deputy secretary - the deputy secretary of the office of correctional operations of the Washington state department of corrections, or the deputy secretary's designee.

Discovery - when a staff member discovers that an infraction has occurred or when an investigation into the incident is concluded.

Earned time - means that portion of time an offender is eligible to earn for program participation approved by the classification process and consistent with his/her case management plan.

Earned release time - means the combined earned time and good conduct time credit an offender is eligible to earn off the minimum term established by the indeterminate sentence review board or the sentencing court.

Good conduct time credits - that portion of an inmate's potential reduction to minimum term which is authorized by RCW 9.95.070 and 72.09.130 and which may be lost by receiving serious infractions.

Hearing officer - Staff member(s) designated by the superintendent to conduct disciplinary hearings.

Infraction - commission of, attempt to commit, or conspiracy with another to commit any violation of prison rules as enumerated in this code. Aiding or abetting another to commit an infraction will be considered the same as commission of the infraction.

Infraction review officer - staff member(s) designated by the superintendent to review a serious infraction.

Lesser included offense - any infraction that must necessarily have been committed in order to commit another infraction.

Medical care - any care conducted in a medical facility/treatment center by medical staff to treat a documented, physical injury, including, but not limited to bandaging, suturing, surgery, etc. An examination conducted by medical staff to determine whether an injury has been sustained shall not be considered medical care.

Mental health professional - an individual with a unique set of knowledge, skills and abilities that makes him/her competent in either development, research, administration, assessment, prevention, treatment, education or training aimed at effecting the onset, occurrence, and maintenance of mental, behavioral and in some cases physical health disorders.

Mitigating factors - factors to be considered by the infraction officer in deciding whether to charge a #328 general infraction rather than a #728 serious infraction. Also, factors to be considered by the infraction review officer, hearings officer, and superintendent for the purpose of deciding whether a #728 serious infraction should be reduced to a #328 general infraction. Mitigating factors may include the seriousness of the sexually explicit material involved, whether the inmate has been convicted of a sexually motivated crime, the treatment needs of the inmate, the prior history of similar behavior, and the source of the material.

Possession - established when an item(s) is found on a person or in an area which is under the control of the individual(s) charged.

Promptly - to act as soon as reasonably possible, consistent with institutional goals of safety, security, and rehabilitation.

Secretary - the secretary of the Washington state department of corrections, or the secretary's designee.

Sexual harassment - any word, action, gesture or other behavior that is sexual in nature and that would be offensive to a reasonable person.

Sexually explicit - means a depiction of one of the following:

- One of the participants in the sexual act is, or appears to be, nonconsenting;
- One of the participants in the sexual act appears to be forceful, threatening, or violent;

- One of the partners in the sexual act is dominating one of the other participants and one of the individuals is obviously in a submissive role or one of the participants is degraded, humiliated, or willingly engages in behavior that is degrading or humiliating;

- One of the participants in the sexual act is a minor, or appears to be a minor, or a minor alone is depicted in a sexually suggestive way;

- Actual penetration, be it penile/vaginal-oral, penile-anal, or penile-vaginal; digital-anal; digital-vaginal; or insertion of any inanimate object in the vaginal or anal cavity, and the depiction in the context presented is deemed to be a threat to legitimate penological objectives;

- Any bodily excretory function which is sexual in nature;

- Bestiality, sadomasochistic behavior, bondage; or

- Material reasonably deemed to be a threat to legitimate penological objectives.

Staff member - for purposes of this chapter includes employees of the department of corrections, contract employees, and volunteers.

Superintendent - superintendent of an adult correctional institution or the superintendent's designee.

Working days - Monday through Friday, excluding weekends and holidays.

[Statutory Authority: RCW 72.01.090, 05-16-033, § 137-28-160, filed 7/26/05, effective 8/26/05. Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070, 02-12-023, § 137-28-160, filed 5/28/02, effective 6/28/02. Statutory Authority: RCW 72.01.090, 00-10-079, § 137-28-160, filed 5/2/00, effective 6/2/00; 97-03-041, § 137-28-160, filed 1/10/97, effective 2/4/97. 95-15-044, § 137-28-160, filed 7/13/95, effective 8/15/95.]

WAC 137-28-260 Serious infractions. See WAC 137-25-030 for the list of serious infractions.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070, 05-24-009 and 06-02-038, § 137-28-260, filed 11/28/05 and 12/28/05, effective 5/1/06. Statutory Authority: RCW 72.01.090, 05-16-033, § 137-28-260, filed 7/26/05, effective 8/26/05. Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070, 04-07-163, § 137-28-260, filed 3/23/04, effective 4/23/04; 02-12-023, § 137-28-260, filed 5/28/02, effective 6/28/02. 01-22-094, § 137-28-260, filed 11/6/01, effective 12/6/01. Statutory Authority: RCW 72.01.090, 00-10-079, § 137-28-260, filed 5/2/00, effective 6/2/00; 97-03-041, § 137-28-260, filed 1/10/97, effective 2/4/97. 95-15-044, § 137-28-260, filed 7/13/95, effective 8/15/95.]

Chapter 137-48 WAC

INMATE MAIL AND COMMUNICATIONS

WAC

137-48-010	Purpose.
137-48-020	Definitions.
137-48-030	Inspection of mail.
137-48-040	Restriction of incoming and/or outgoing mail.
137-48-050	Procedures for restrictions of incoming and/or outgoing mail.
137-48-060	Mail costs.
137-48-080	Telephone usage.

WAC 137-48-010 Purpose. The purpose of these rules is to maintain the safety, security, and discipline of adult prison facilities operated under the jurisdiction of the department of corrections in accordance with Title 72 RCW et al., by establishing guidelines for the development of departmental and institution level policies and rules governing the receipt and sending of mail by inmates to prevent the trans-

mission of illegal items or contraband into or out of an institution. These rules shall not apply to work release facilities under the jurisdiction of the department.

[05-13-004, § 137-48-010, filed 6/2/05, effective 7/2/05. 91-23-103, § 137-48-010, filed 11/20/91, effective 1/1/92. Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. 83-20-036 (Order 83-09), § 137-48-010, filed 9/27/83.]

Reviser's note: Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

WAC 137-48-020 Definitions. (1) "Contraband" includes illegal items, explosives, deadly weapons, alcoholic beverages, drugs, tobacco products, controlled substances and any item that is controlled, limited, or prohibited on the grounds or within the secure perimeter of a correctional facility as defined by department or institution policy.

(2) "Emergency situations" are critical illnesses, deaths, or similar situations experienced by members of the inmate's family or the inmate.

(3) "Illegal items" are items which are unlawful for any person to possess within the community as defined by the laws of the state of Washington, controlled substances as defined and listed in chapter 69.50 RCW or any weapon, firearm, or any instrument which, if used, could produce serious bodily injury to another.

(4) "Indigent inmate" an inmate who has less than a ten-dollar balance of disposable income in his/her trust fund account on the day a request is made to utilize funds and during the thirty days previous to the request.

(5) "Inspection of mail" the physical act of opening, touching, and/or reading of mail, the use of mechanical or chemical systems and/or the use of animals to determine the presence of contraband or illegal items.

(6) "Legal mail" is correspondence to or from courts and court staff (judges, clerks of the court, judicial law clerks, etc.), attorneys, established groups of attorneys involved in the representation of inmates in judicial proceedings (ACLU, legal services groups, etc.), the President or Vice-President of the United States, members of the United States Congress, embassies and consulates, the United States Department of Justice, state attorney general, governors, members of the state legislature, and law enforcement officers in their official capacity.

To be considered and therefore handled as "legal mail" the correspondence must be clearly marked "legal mail" on the outside front of the envelope, and must have a return address which clearly indicates that the mail is from one of the above listed sources.

(7) "Letters" consist of handwritten/typed communications and/or written/pictorial enclosures to and from inmates. A standard first class, one ounce letter shall be consistent with the dimensions, weight, and thickness as prescribed by the United States Postal Service. A properly addressed and stamped post card or greeting card shall be processed with the same standards as described above for a first class one ounce letter. Nonstandard first class mail requires a surcharge as established by the United States Postal Service.

(8) "Mail" consists of letters, publications, or packages delivered by the United States Post Office or by other established and authorized carriers.

(9) "Packages" a wrapped or boxed object; a parcel or bundle containing one or more objects, a container in which something is packed for storage or transport or mailing.

(10) "Publications" consists of reproduced handwritten or typed/printed or pictorial materials including books, periodicals, newspapers, magazines, and pamphlets.

(11) "Return address" for an inmate this includes the full committed name, and may include any other legal name, DOC number, housing assignment, and the full name of the correctional facility from which the correspondence is mailed. For a free citizen this includes a reasonable return address as recognized by the United States Postal Service.

(12) "Secretary" is the secretary of the department of corrections or his/her designee(s).

(13) "Sexually explicit" means any pictorial representation that is intended for sexual gratification and shows male or female genitalia, full frontal nudity, or depicts one or more of the following sexual behaviors:

(a) One or more of the participants appears to be nonconsenting;

(b) One or more of the participants appears to be acting in a forceful, threatening, or violent manner;

(c) One or more of the participants appears to be dominating one or more of the other participants or one or more of the participants appears to be in a submissive role or one or more of the participants appears to be degraded, humiliated, or appears to willingly engage in behavior that is degrading or humiliating;

(d) One of the participants appears to be a minor, or a minor alone is depicted in a sexually suggestive way;

(e) Bodily excretory behavior which appears to be sexual in nature;

(f) Bestiality, sadomasochistic behavior, and/or bondage; or

(g) Depicts sexual behaviors including, but not limited to, intercourse/penetration, sodomy, fellatio, cunnilingus, anilingus, or masturbation.

The term sexually explicit also refers to those written materials that are intended for sexual gratification and describe one or more of the above sexual behaviors as the predominant theme of the publication or letter.

(14) "Superintendent" means the superintendent of a correctional facility or his/her designee(s).

[05-13-004, § 137-48-020, filed 6/2/05, effective 7/2/05. 91-23-103, § 137-48-020, filed 11/20/91, effective 1/1/92. Statutory Authority: RCW 72.09.050, 72.08.103, 72.13.080 and 72.15.040. 84-08-011 (Order 84-04), § 137-48-020, filed 3/26/84. Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. 83-20-036 (Order 83-09), § 137-48-020, filed 9/27/83. Formerly WAC 275-96-005.]

Reviser's note: Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

WAC 137-48-030 Inspection of mail. (1) All mail intended for or to be sent by an inmate, excluding legal mail discussed in subsection (3) of this section, may be inspected

at any time by the staff designated by the superintendent or his/her designee(s). Mail may be disapproved for receipt or transmittal in accordance with WAC 137-48-040.

(2) No person who inspects, or participates in the inspection, of an inmate's mail, shall disclose the contents except in the cause of his/her official duties.

(3) Mail (incoming or outgoing) which is clearly identified on the outside of the envelope as legal mail, as defined in WAC 137-48-020, shall be inspected only in the presence of the inmate. Legal mail shall not be read without a search warrant but may be inspected in the presence of the inmate to verify legal mail status and that the mail is free of contraband.

(4) Mail containing illegal items or contraband shall be held and disposed of in accordance with the procedures set forth in chapter 137-36 WAC or as otherwise stated in this chapter.

[05-13-004, § 137-48-030, filed 6/2/05, effective 7/2/05. 91-23-103, § 137-48-030, filed 11/20/91, effective 1/1/92. Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. 83-20-036 (Order 83-09), § 137-48-030, filed 9/27/83.]

Reviser's note: Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

WAC 137-48-040 Restriction of incoming and/or outgoing mail. (1) Incoming mail to inmates may be disapproved for receipt for any one of the following reasons:

(a) The mail threatens illegal activity, including but not limited to, threats of physical harm, blackmail or extortion.

(b) The mail threatens the safety and security of the institution, including but not limited to, mail concerning sending contraband escape plans, security devices, or mail that is in a code, a foreign language that cannot be interpreted, does not contain a return address, contains gang symbols, plans for activities in violation of institutional rules or contains information which, if communicated, would create a risk of violence and/or physical harm.

(c) The mail is susceptible to the introduction of contraband, including but not limited to, altered publications, mail with unknown substances on or in it, mail purported to be legal mail that is general correspondence, cash or checks, postage stamps, stickers, photos wherein the nonphoto side is or can be separated, publications not mailed directly from vendor, items not ordered and approved through institution channels, greeting cards that are padded, laminated/layered or musical.

(d) Any mail or publication that is deemed to be a threat to legitimate penological objectives, including but not limited to, sexually explicit materials.

(e) The mail contains inmate to inmate correspondence that has not been approved by the superintendent in compliance with department policy.

(f) The mail contains items identified by the department secretary or designee as not authorized, including but not limited to, multiple copies of documents, mailings soliciting or offering games of chance, clippings from books or magazines.

(g) The mail is from an individual with whom contact is restricted in compliance with the judgment and sentence, a no contact order, department policy.

(2) Outgoing mail from inmates of institutions may be disapproved for mailing for any one of the following reasons:

(a) For any one of the reasons set forth in WAC 137-48-040(1).

(b) The mail is addressed to a minor whose parents or guardian have objected in writing to such correspondence.

(c) An individual or their guardian who previously has been sent obscene or threatening mail by the inmate has complained or has asked that such mail not be received.

(d) The mail solicits money or goods from a person or organization other than the immediate family of the inmate without the permission of the superintendent. The above provisions may not be construed to preclude the purchase of non-contraband goods or payment for such goods which have been approved by the superintendent or his/her designee.

(e) The outside of the mail (envelope or package) does not contain a return address as defined in WAC 137-48-020.

(3) No mail is to be restricted for the reason that it appeals to a particular ethnic, racial, or religious group, or that it contains critical opinions of departmental policy or departmental employees, unless the mail is also judged to be a threat to legitimate penological objectives.

(4) In addition to those reasons cited in this section, packages sent either to or from an inmate are subject to the following restrictions:

(a) An inmate may receive one gift package not to exceed fifteen pounds in weight on a quarterly basis. Quarterly periods shall consist of December through February, March through May, June through August, and September through November. Rules governing the contents of quarterly packages shall be developed specifically by each institutional superintendent and approved by staff designated by the secretary. The superintendent may allow exceptions from the one gift package limitation and weight limitation provided that appropriate contraband controls are maintained.

(b) The contents of the quarterly package shall be restricted to those items that are otherwise not available to the inmate through the institutional store or other purchasing outlet provided by the institution. A replacement package may be sent during the same quarter for damaged packages that are returned to the sender by the inmate.

(c) Prepaid merchandise approved by the superintendent or designee and ordered by the inmate from any wholesaler or retailer shall not be considered one of the quarterly packages.

(d) Inmates may mail packages containing materials which have been sent to him or her in the institution or gifts consisting of his or her own hobby craft or curio work. Packages must be made and mailed at the inmate's expense.

(e) Newly admitted inmates at any department of corrections operated reception center will not receive packages while assigned to the reception center.

[05-13-004, § 137-48-040, filed 6/2/05, effective 7/2/05. 91-23-103, § 137-48-040, filed 11/20/91, effective 1/1/92. Statutory Authority: RCW 72.01.090, 86-21-058 (Order 86-06), § 137-48-040, filed 10/14/86. Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. 83-20-036 (Order 83-09), § 137-48-040, filed 9/27/83. Formerly WAC 275-96-021 and 275-96-022.]

Reviser's note: Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the

Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

WAC 137-48-050 Procedures for restrictions of incoming and/or outgoing mail. (1) If an inmate's incoming

or outgoing mail is restricted, written notification will be provided to the inmate by the mailroom staff. This notification shall be provided to the inmate and the sender of the specific publication, letter, or package which has been restricted and the reason for this action. The notice shall contain notification to the inmate that the restriction becomes final within ten days of the initial notice. The superintendent or his/her designee shall review the restriction within the ten-day period of time and shall either uphold the restriction, or allow for the delivery of the mail.

(2) The inmate and sender shall be advised in writing of his/her right to seek review of the decision to restrict his/her mail. The review shall be sought by writing directly to the superintendent/designee within ten calendar days of the initial restriction decision.

(3) Upon receipt of an inmate's and/or sender's appeal, the superintendent or his/her designee shall affirm or reverse the action taken at the institution and shall send a notice of the decision in writing within ten working days from the receipt of the inmate's or sender's written request.

(4) The inmate and the sender may seek a review of the superintendent's/designee's decision by writing directly to the staff designated by the secretary within ten calendar days of the decision.

(5) Upon receipt of the offender's or sender's appeal, the staff designated by the secretary will affirm or reverse the action taken at the facility and will advise the offender or sender in writing of this action within ten calendar days from the receipt of the offender's or sender's written request.

(6) Incarcerated offenders are financially responsible for disposing of their own unauthorized personal property by shipping it to a nonincarcerated person designated by the offender at the offender's expense. The sender should not send stamps or money to the facility or headquarters for this purpose.

(7) When a decision is rendered regarding a particular issue of a publication, that decision shall be binding for all prison facilities. A statewide notification shall be promptly issued from the final reviewer when the decision is rendered.

(8) If a package contains contraband and is subject to criminal prosecution, the entire package will be turned over to the appropriate law enforcement agency. Items of contraband not subject to criminal prosecution will be disposed of in accordance with procedures set forth in departmental and facility regulations as authorized by chapter 137-36 WAC.

[05-13-004, § 137-48-050, filed 6/2/05, effective 7/2/05. 91-23-103, § 137-48-050, filed 11/20/91, effective 1/1/92. Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. 83-20-036 (Order 83-09), § 137-48-050, filed 9/27/83. Formerly WAC 275-96-070.]

Reviser's note: Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

WAC 137-48-060 Mail costs. (1) Except as otherwise stated in this section, mail costs shall be the responsibility of the inmate.

(2) Mail which arrives at the institution with postage due may, at the option of the superintendent, be delivered to the inmate. The institution may pay the postage due in accordance with subsection (3) of this section, or hold the mail for a reasonable period of time so as to allow the inmate to arrange for payment of the postage due. If such arrangements are not made within the time provided, the package/mail may be donated to charity or discarded.

(3) Indigent inmates shall be authorized to receive postage up to the equivalent to the mailing cost of ten standard first class letters per week. This indigent postage provision shall cover both legal and/or regular letters.

(4) The department shall recoup any expenditures made by the institution for postage due on incoming mail and/or indigent postage for letters, (as identified in subsection (3) of this section) may be recouped by the institution whenever such indigent inmate has ten dollars or more of disposable income in his/her trust fund account.

[05-13-004, § 137-48-060, filed 6/2/05, effective 7/2/05. 91-23-103, § 137-48-060, filed 11/20/91, effective 1/1/92. Statutory Authority: RCW 72.09.050, 72.08.103, 72.13.080 and 72.15.040. 84-08-011 (Order 84-04), § 137-48-060, filed 3/26/84. Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. 83-20-036 (Order 83-09), § 137-48-060, filed 9/27/83. Formerly WAC 275-96-060.]

Reviser's note: Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

WAC 137-48-080 Telephone usage. (1) Telephone facilities shall be provided in appropriate numbers and locations to permit reasonable and equitable access to all inmates, except inmates of the reception center and those inmates in disciplinary segregation.

(2) The superintendent shall promulgate written regulations providing for access of inmates to additional telephone facilities in emergency situations.

(3) The superintendent shall promulgate written regulations outlining the hours of telephone availability, maximum length of calls (not less than five minutes), limitations on telephone use, and provisions for monitoring, recording, and operator-announced calls as provided for in RCW 9.73.095.

[05-13-004, § 137-48-080, filed 6/2/05, effective 7/2/05. 91-23-103, § 137-48-080, filed 11/20/91, effective 1/1/92. Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. 83-20-036 (Order 83-09), § 137-48-080, filed 9/27/83. Formerly WAC 275-96-065.]

Reviser's note: Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

Chapter 137-56 WAC

COMMUNITY RESIDENTIAL PROGRAMS, WORK/TRAINING RELEASE

WAC

137-56-010

Definitions.

137-56-015 Disposition of earnings.
137-56-030 Reasons for placement in a work release program.
137-56-040 Eligibility criteria.
137-56-050 Application—Consideration.
137-56-070 Screening referrals.
137-56-080 Plan—Approval or denial.
137-56-090 Plan—Restrictions.
137-56-095 Orientation.
137-56-110 Serious infractions.
137-56-120 Provisions of supervision.
137-56-140 Limits of confinement.
137-56-150 Sponsor-escort.
137-56-160 Termination of plan.
137-56-170 Service of notice of proposed disciplinary action.
137-56-175 Alternatives to the formal disciplinary hearing.
137-56-180 Disciplinary hearing.
137-56-200 Disciplinary hearing—Waiver.
137-56-210 Disciplinary hearing—Rules of evidence.
137-56-220 Disciplinary hearing—Findings and conclusions.
137-56-230 Disciplinary hearing—Disposition.
137-56-240 Disciplinary hearing—Decision.
137-56-250 Disciplinary hearing—Appeal.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

137-56-060 Application—Decision. [94-07-065, § 137-56-060, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-060, filed 4/5/82. Formerly WAC 275-92-335.] Repealed by 05-24-009 and 06-02-038, filed 11/28/05 and 12/28/05, effective 5/1/06. Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070.

137-56-100 Standard rules. [94-07-065, § 137-56-100, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. 86-06-012 (Order 86-02), § 137-56-100, filed 2/21/86; 82-08-055 (Order 82-06), § 137-56-100, filed 4/5/82. Formerly WAC 275-92-355.] Repealed by 05-24-009 and 06-02-038, filed 11/28/05 and 12/28/05, effective 5/1/06. Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070.

WAC 137-56-010 Definitions. (1) "Secretary" is the secretary of the department of corrections or his/her designee.

(2) "Department" is the department of corrections.

(3) "Work/training release facility supervisor" is a staff member assigned by the community corrections regional administrator to administer and supervise a specific work/training release facility and includes his/her designee.

(4) "Work/training release community corrections officer" is a staff member assigned by the work/training release facility supervisor to supervise and counsel a caseload of work/training release residents at a specific work/training release facility.

(5) "Contract staff" is the staff member(s) of an agency under contract to the department of corrections to provide housing and monitoring for work/training release residents.

(6) "Work/training release offender" is any offender committed to or transferred to the department's custody pursuant to a valid criminal conviction who has been approved by the department for placement in a designated work/training release facility.

(7) "Sponsor-escort" is a responsible citizen assigned to escort and monitor a resident during official and social activities outside of the work/training release facility.

(8) "Work/training release facility" is an establishment approved for housing and monitoring of work/training release residents during the resident's stay in a work/training release program.

(9) "One working day" is a nine-hour day, 8:00 a.m. to 5:00 p.m. excluding weekends and holidays.

(10) "Hearing officer" means an employee of the department authorized to conduct disciplinary/department hearings.

(11) "Hearings program administrator" means the administrator of the hearings unit of the department, or the hearing program administrator's designee.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. 05-24-009 and 06-02-038, § 137-56-010, filed 11/28/05 and 12/28/05, effective 5/1/06. 94-07-065, § 137-56-010, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. 86-06-012 (Order 86-02), § 137-56-010, filed 2/21/86; 82-08-055 (Order 82-06), § 137-56-010, filed 4/5/82. Formerly chapter 275-92 WAC.]

WAC 137-56-015 Disposition of earnings. Reasonable payment as determined by the department of board and room charges will be deducted from the work/training release residents' earnings. For purposes of this section, earnings shall constitute all income and money received or possessed by the work/training release offender while under a work release plan. Nothing in this section shall prohibit the department's authority to obtain reimbursement for moneys advanced to a work/training release offender by the department.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. 05-24-009 and 06-02-038, § 137-56-015, filed 11/28/05 and 12/28/05, effective 5/1/06. 94-07-065, § 137-56-015, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. 86-06-039 (Order 86-04), § 137-56-015, filed 3/3/86.]

WAC 137-56-030 Reasons for placement in a work release program. Work/training release may be authorized for one or more of the following:

- (1) To participate in full-time employment or part-time employment at specialized programs;
- (2) To participate in a vocational training program, including attendance at an accredited college.
- (3) To secure services to support transition back to the community.
- (4) As a sanction for violating community supervision conditions.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. 05-24-009 and 06-02-038, § 137-56-030, filed 11/28/05 and 12/28/05, effective 5/1/06. 94-07-065, § 137-56-030, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-030, filed 4/5/82. Formerly WAC 275-92-320.]

WAC 137-56-040 Eligibility criteria. (1) An offender is eligible for work/training release provided that:

- (a) He or she has a minimum security status;
- (b) He or she is within the last one hundred eighty days of their confinement.

(2) Offenders convicted of rape in the first degree shall not be eligible for work/training release at any time during the first three years of confinement.

(3) Offenders convicted of murder first degree are not eligible for work/training release, without the written approval of the secretary.

(4) Offender who violates condition(s) of community supervision and is sanctioned to a term less than one hundred eighty days.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. 05-24-009 and 06-02-038, § 137-56-040, filed 11/28/05 and 12/28/05, effective 5/1/06. 94-07-065, § 137-56-040, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-040, filed 4/5/82. Formerly WAC 275-92-325.]

WAC 137-56-050 Application—Consideration. (1) Based on the offender's request to participate in a work release program and/or the offender's need to transition through a work release program, the facility classification review team will refer the offender to the appropriate program.

(2) The community corrections officer can make recommendation for placement in a work release program as a result of violation of conditions of supervision in the community.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. 05-24-009 and 06-02-038, § 137-56-050, filed 11/28/05 and 12/28/05, effective 5/1/06. 94-07-065, § 137-56-050, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-050, filed 4/5/82. Formerly WAC 275-92-330.]

WAC 137-56-070 Screening referrals. (1) The work/training release facility supervisor or his or her designee shall screen the offenders referred to the program.

(2) The work/training release screening process will be based on established criteria.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. 05-24-009 and 06-02-038, § 137-56-070, filed 11/28/05 and 12/28/05, effective 5/1/06. 94-07-065, § 137-56-070, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-070, filed 4/5/82. Formerly WAC 275-92-340.]

WAC 137-56-080 Plan—Approval or denial. (1) The work release supervisor or designee's screening decision will be documented by the work/training release facility supervisor/designee on the offender tracking system indicating the action taken.

(2) Approved offenders will be placed in the program based on priority with high risk offenders being placed first. Disapproved offenders can obtain the reasons for the denial, as documented on the offender tracking system.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. 05-24-009 and 06-02-038, § 137-56-080, filed 11/28/05 and 12/28/05, effective 5/1/06. 94-07-065, § 137-56-080, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-080, filed 4/5/82. Formerly WAC 275-92-345.]

WAC 137-56-090 Plan—Restrictions. The work or training site shall be within reasonable commuting distance (in most circumstances not more than fifty miles) of the work/training release facility in which the offender is confined.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. 05-24-009 and 06-02-038, § 137-56-090, filed 11/28/05 and 12/28/05, effective 5/1/06. 94-07-065, § 137-56-090, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-090, filed 4/5/82. Formerly WAC 275-92-350.]

WAC 137-56-095 Orientation. (1) At the time of admission, each work/training release offender shall be advised in writing of:

- (a) Program goals and services available.
- (b) Rules governing conduct and program rules.
- (c) Disciplinary action which may be taken in the event of a serious infraction or violation of rules or special conditions. To include, but not be limited to:

(i) Remain confined to the work/training release premises at all times other than the time necessary to implement

the plan or when authorized under WAC 137-56-140. Any work/training release resident approved for placement under a work/training release plan who willfully fails to report to his or her designated assignment or return to the designated place of confinement at the time specified may be deemed an escapee and fugitive from justice, and upon conviction shall be guilty of a felony and sentenced in accordance with state law.

(ii) Have employment or other approved resources in order to maintain himself or herself financially.

(iii) Not consume, ingest, inject, or possess nonprescription narcotic or "dangerous" drugs or controlled substances or alcoholic beverages.

(iv) Report all income to the work/training facility supervisor or his or her designee. All income from any source shall be immediately placed in the resident's inmate banking account by the facility supervisor or his/her designee. A receipt will be issued.

(2) All amendments or additions to disciplinary rules, policies, and procedures shall be posted at a specifically designated place or places in each work/training release facility in advance of their effective date if possible and for at least thirty days after their effective date. Work/training release offenders shall be responsible for informing themselves of such postings. Complete and up-to-date copies of these rules and all program rules shall be available at each work/training release facility for examination.

(3) The work/training release facility supervisor shall ensure that each work/training release resident has the opportunity to understand rules which relate to his/her conduct. If the resident is unable to read or understand English, the rules shall be read to him/her promptly in his/her accustomed language.

(4) All offenders will receive orientation within forty-eight hours of arrival. Orientation must be completed before the offender can leave the facility. The offender must sign the appropriate form indicating he/she will comply with all the work release policies and program rules.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. 05-24-009 and 06-02-038, § 137-56-095, filed 11/28/05 and 12/28/05, effective 5/1/06. 94-07-065, § 137-56-095, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. 86-06-012 (Order 86-02), § 137-56-095, filed 2/21/86.]

WAC 137-56-110 Serious infractions. Refer to chapter 137-25 WAC, serious infractions.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. 05-24-009 and 06-02-038, § 137-56-110, filed 11/28/05 and 12/28/05, effective 5/1/06. 99-16-078, § 137-56-110, filed 8/3/99, effective 8/18/99; 94-07-065, § 137-56-110, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. 86-06-012 (Order 86-02), § 137-56-110, filed 2/21/86.]

WAC 137-56-120 Provisions of supervision. In meeting its responsibilities for providing supervision of offenders in the program, the following will be provided at the work release facility:

(1) Staff on duty twenty-four hours a day, seven days a week;

(2) A check-in and check-out system to ensure that the stated whereabouts of the offender is known at all times, including checks at school, work, furlough, sponsored outing, pass, etc.;

(3) Bed checks or head counts to account for the resident's whereabouts; a minimum of three counts daily shall be required;

(4) Provide adequately for the resident with respect to sleeping quarters, bathroom facilities, and accommodations for cooking, dining, lounging and leisure time activities;

(5) Comply with state and local fire codes and applicable building, safety, and sanitation codes.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. 05-24-009 and 06-02-038, § 137-56-120, filed 11/28/05 and 12/28/05, effective 5/1/06. 94-07-065, § 137-56-120, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-120, filed 4/5/82. Formerly WAC 275-92-405.]

WAC 137-56-140 Limits of confinement. A work/training release offender shall be confined to the facility at all times except:

(1) When seeking or arranging for registration at a school or training facility;

(2) When working at paid employment or attending a training facility in a vocational or academic program;

(3) When authorized a point-to-point pass not to exceed two hours, excluding travel, for the purpose of transacting personal business including a treatment regimen, between the hours of 7:00 a.m. and 10:00 p.m. and/or outside that time frame with written permission of the facility supervisor or designee;

(4) When authorized to participate in social and recreational activities in company with a sponsor-escort between 8:00 a.m. and midnight;

(5) When on furlough;

(6) When on authorized medical appointments or court appearances;

(7) When ordered to perform community service;

(8) When seeking employment as approved on an approved job search pass.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. 05-24-009 and 06-02-038, § 137-56-140, filed 11/28/05 and 12/28/05, effective 5/1/06. 94-07-065, § 137-56-140, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-140, filed 4/5/82. Formerly WAC 275-92-410.]

WAC 137-56-150 Sponsor-escort. (1) A sponsor-escort shall be a responsible citizen who shall accompany and monitor a work/training release offender during a social or recreational activity. The sponsor-escort must be approved by the work/training release facility supervisor or designee; and the sponsor and resident must sign an agreement with the department which describes his or her responsibilities.

(2) Persons who are on active/inactive felony probation or parole or under an active SRA sentence, shall not be approved as sponsor-escorts. Persons who have a past felony conviction and who have earned a discharge may be approved as sponsor-escorts on an individual basis by the work release supervisor, or his or her designee.

(3) Sponsor-escorts must complete a sponsor orientation provided by the work/training release facility before eligibility under this section.

(4) Sponsor-escorts may not be party to an active no-contact order with the offender.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. 05-24-009 and 06-02-038, § 137-56-150, filed 11/28/05 and 12/28/05, effective 5/1/06.]

94-07-065, § 137-56-150, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-150, filed 4/5/82. Formerly WAC 275-92-415.]

WAC 137-56-160 Termination of plan. At any time after approval has been granted to any work/training release offender to participate in the work/training release program, such approval may be revoked, and the offender may be sent to a state correctional institution or jail. A work release offender may be terminated from the program as a result of a disciplinary or classification decision or the following:

- (1) If requested in writing by the work/training release offender;
- (2) If the work/training release offender lacks aptitude for the assignment or is improperly placed; or
- (3) If the work/training release offender has been unable to adjust or adapt to the conditions of the work/training release facility; or
- (4) If the work/training release offender's situation and circumstances have significantly changed; or
- (5) If the work/training release offender has failed to comply with federal or state laws or local ordinances.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. 05-24-009 and 06-02-038, § 137-56-160, filed 11/28/05 and 12/28/05, effective 5/1/06. 94-07-065, § 137-56-160, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. 86-06-012 (Order 86-02), § 137-56-160, filed 2/21/86; 82-08-055 (Order 82-06), § 137-56-160, filed 4/5/82. Formerly WAC 275-92-510.]

WAC 137-56-170 Service of notice of proposed disciplinary action. (1) If disciplinary action is proposed, the work/training release facility supervisor or community corrections officer may suspend the work/training release plan and place the offender in custody pending a disciplinary hearing.

(2) The work/training release facility supervisor or designee shall advise the offender in writing of the factual allegations which provide the basis for the proposed disciplinary action within one working day after the suspension of the work/training release plan.

(3) If the work/training release plan is not suspended pending the disciplinary hearing, then the facility supervisor or designee shall advise the offender at least twenty-four hours prior to the scheduled hearing.

(4) The factual allegations may be amended and/or new allegations added at any time prior to the disciplinary hearing, provided that the work/training release offender shall have notice of such new and/or amended allegations at least twenty-four hours prior to the disciplinary hearing unless such notice shall be waived in writing by the offender.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. 05-24-009 and 06-02-038, § 137-56-170, filed 11/28/05 and 12/28/05, effective 5/1/06. 94-07-065, § 137-56-170, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. 86-06-012 (Order 86-02), § 137-56-170, filed 2/21/86; 82-08-055 (Order 82-06), § 137-56-170, filed 4/5/82. Formerly WAC 275-92-515.]

WAC 137-56-175 Alternatives to the formal disciplinary hearing. When addressing serious infractions, the work/training release community corrections officer may, with the facility supervisor's permission, choose to address the infraction behavior using either a department authorized

stipulated agreement or the negotiated sanction agreement process.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. 05-24-009 and 06-02-038, § 137-56-175, filed 11/28/05 and 12/28/05, effective 5/1/06. 94-07-065, § 137-56-175, filed 3/14/94, effective 5/1/94.]

WAC 137-56-180 Disciplinary hearing. (1) A work/training release offender served with allegations providing the basis for a proposed disciplinary action shall be notified in writing that a hearing has been set before department hearing officer. An allegation involving the commission by the offender of a serious infraction may be amended at anytime by the department, provided that twenty-four hours notice be given to the offender or the offender agrees in writing to waive notice to respond to the allegations. The hearing will be held within eight working days of the suspension of the work/training release plan, unless a longer time is approved by the hearings program administrator or his or her designee. The written notice of hearing shall be given to the offender at least twenty-four hours before the hearing unless notice is waived, in writing, and advise the offender of his or her rights, including the following:

(a) The offender shall be present at all stages of the hearing, except during deliberation in appropriate circumstances.

(b) The offender shall present his or her own case to the hearing officer. If there is a language or communications barrier, the hearing officer shall appoint an advisor.

(c) The offender may have an attorney present at his/her expense, only when a felony has been alleged. Such representation is limited to advising the offender of his or her rights to remain silent, and does not include the right to act as an advocate throughout the hearing.

(d) The offender may testify during the hearing or remain silent, and his or her silence will not be held against him or her.

(e) The work/training release offender may, in preparation for the hearing, ask the hearing officer that certain department or contract staff members, other work/training release offenders, and other persons be present as witnesses at the hearing. The hearing officer shall grant such request if it is determined by the hearing officer that to do so would not be unduly hazardous to the work/training release facility's safety or correctional goals: Provided, however, Limitations may be made by the hearing officer if the information to be presented by the witnesses is deemed to be irrelevant, duplicative, or unnecessary to the adequate presentation of the work/training release offender's case.

(2) Attendance at the hearing shall be limited to parties directly concerned. The hearing officer may exclude unauthorized persons.

(3) Hearings shall be recorded and a copy of the recording maintained in accordance with the statewide retention schedule.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. 05-24-009 and 06-02-038, § 137-56-180, filed 11/28/05 and 12/28/05, effective 5/1/06. 95-22-060, § 137-56-180, filed 10/30/95, effective 12/1/95. 94-07-065, § 137-56-180, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. 86-06-012 (Order 86-02), § 137-56-180, filed 2/21/86; 82-08-055 (Order 82-06), § 137-56-180, filed 4/5/82. Formerly WAC 275-92-520.]

WAC 137-56-200 Disciplinary hearing—Waiver. (1) At any time after having been served with an allegation pro-

viding the basis for a proposed disciplinary action, the offender may choose to waive his or her right to a hearing by signing an admission of the allegation and request that the hearing be dispensed with entirely or limited only to questions of disposition. Also, the offender may waive, in writing, the twenty-four hour notice.

(2) The offender may admit in writing to part of the allegations and thereby limit the scope of the hearing.

(3) In those cases where the allegation involves misbehavior or other culpability on the part of the offender, he or she shall be advised in writing that in admitting the violation and waiving the hearing, a report will be submitted which may result in the loss of work/training release status, good time credits and/or the extension of the minimum term.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. 05-24-009 and 06-02-038, § 137-56-200, filed 11/28/05 and 12/28/05, effective 5/1/06. 94-07-065, § 137-56-200, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. 86-06-012 (Order 86-02), § 137-56-200, filed 2/21/86; 82-08-055 (Order 82-06), § 137-56-200, filed 4/5/82. Formerly WAC 275-92-530.]

WAC 137-56-210 Disciplinary hearing—Rules of evidence. (1) All relevant and material evidence is admissible which, in the opinion of the hearing officer, is the best evidence reasonably obtainable having due regard for its necessity, availability, and trustworthiness.

(2) All evidence material to the issues raised in the hearing shall be offered into evidence. All evidence forming the basis for the hearing officer's decision in a matter shall be offered into evidence.

(3) The work/training release offender shall be allowed to call witnesses approved by the hearing officer pursuant to WAC 137-56-180 (1)(e) and to present documentary evidence in his/her defense at the hearing when permitting the work/training release offender to do so will not be unduly hazardous to the work/training release facility's safety or correctional goals unless the testimony to be presented by the witness and/or the information desired to be presented is deemed by the hearing officer to be irrelevant, immaterial, unnecessarily duplicative of other information and/or testimony before the hearing officer, or otherwise found to be unnecessary to the adequate presentation of the work/training release offender's case. The testimony of all witnesses from outside the work/training release facility shall be considered in writing. In the event the hearing officer determines that the presence of a witness is appropriate, the hearing officer should call the witness, or in its discretion, may continue the hearing if the witness is unavailable, but will become available within a reasonable period of time: Provided, however, That if the witness is unavailable, the hearing officer may, in his or her discretion, consider the written testimony previously submitted.

(4) The work/training release offender may question witnesses against him/her at the discretion of the hearing officer. If the hearing officer determines that a source of information would be subject to risk or harm if his/her identity were disclosed, testimony of the confidential source may be introduced by the testimony of a staff member. The confidential testimony may be provided by the source or by the written and signed statement of the source. If the staff member to whom the source provided information is unavailable, the

written statement of this staff member may be used. The hearing officer shall, out of the presence of all work/training release offenders and off the record, identify the confidential source, and how the testifying staff member received the confidential information. The staff member presenting the information from a confidential source shall identify the source and the circumstances surrounding the receipt of the confidential information to the hearing officer, off the record. The hearing officer shall make an independent determination regarding the reliability of the confidential source, the credibility of the confidential information, and the necessity of not revealing the source of the confidential information. In determining whether the confidential source is reliable and the confidential information is credible, the hearing officer should consider all relevant circumstances including, but not limited to:

(a) Evidence from other staff members that the confidential source has previously given reliable information;

(b) Evidence that the confidential source had no apparent motive to fabricate information;

(c) Evidence that the confidential source received no benefit from providing the information;

(d) Whether the confidential source is giving first-hand information;

(e) Whether the confidential information is internally consistent and is consistent with other known facts; and

(f) The existence of corroborating evidence.

The hearing officer shall also determine whether safety concerns justify nondisclosure of the source of confidential information. The reliability and credibility determination and the need for confidentiality must be made on the record.

(5) Documentary evidence, including written statements submitted by interested parties on behalf of the offender, may be received. Such evidence may include copies of documents, excerpts from documents and incorporation of written material by reference, including depositions.

(6) The hearing officer should determine if the offender is competent to understand the charges and proceedings or needs an interpreter to participate therein. If the offender is not competent or needs an interpreter, the hearing officer should postpone the hearing to secure a report on the competency of the offender, provide an interpreter, or take such other action as will assure the fairness and orderliness of the hearings.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. 05-24-009 and 06-02-038, § 137-56-210, filed 11/28/05 and 12/28/05, effective 5/1/06. 95-22-060, § 137-56-210, filed 10/30/95, effective 12/1/95. 94-07-065, § 137-56-210, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. 86-06-012 (Order 86-02), § 137-56-210, filed 2/21/86; 82-08-055 (Order 82-06), § 137-56-210, filed 4/5/82. Formerly WAC 275-92-535.]

WAC 137-56-220 Disciplinary hearing—Findings and conclusions. (1) At the conclusion of the hearing, the hearing officer will make a finding of fact as to whether or not the allegations made against the offender have been proven by a preponderance of the evidence presented at the hearing.

(2) If the hearing officer determines that the allegations have not been proven by a preponderance of the evidence presented at the hearing, the offender shall be restored/continued on work/training release status.

(3) If the hearing officer determines that one or more of the allegations have been proven by a preponderance of the evidence presented at the hearing, the hearing officer will proceed to a disposition.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. 05-24-009 and 06-02-038, § 137-56-220, filed 11/28/05 and 12/28/05, effective 5/1/06. 94-07-065, § 137-56-220, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. 86-06-012 (Order 86-02), § 137-56-220, filed 2/21/86; 82-08-055 (Order 82-06), § 137-56-220, filed 4/5/82. Formerly WAC 275-92-540.]

WAC 137-56-230 Disciplinary hearing—Disposition.

(1) The hearing officer shall seek and consider input from the community corrections officer, the facility contract staff and pertinent treatment providers.

(2) The hearing officer will consider the offender's total background, adjustment on work/training release, attitude, recommendations of interested parties, and any other information relative to the offender's ability to continue in the program. The hearing officer shall make a determination as to whether or not the offender has earned good time credits toward release, and whether the matter should be referred to the indeterminate sentence review board or the court for possible increase in the inmate's or offender's minimum term.

(3) The offender shall be present at all stages of the hearing, except for deliberation and even during deliberation when appropriate, and shall have the opportunity to make argument in his or her own behalf.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. 05-24-009 and 06-02-038, § 137-56-230, filed 11/28/05 and 12/28/05, effective 5/1/06. 94-07-065, § 137-56-230, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. 86-06-012 (Order 86-02), § 137-56-230, filed 2/21/86; 82-08-055 (Order 82-06), § 137-56-230, filed 4/5/82. Formerly WAC 275-92-545.]

WAC 137-56-240 Disciplinary hearing—Decision.

(1) The hearing officer may:

(a) Restore the work/training release offender to his or her work/training release status under the same or modified conditions as the original plan; or

(b) Restrict the offender to the work/training release facility for up to thirty days; or

(c) Require restitution be made by the work/training release offender; or

(d) Require extra duty to be performed by the offender; or

(e) Revoke approval of an approved sponsor; or

(f) Deny good conduct time; or

(g) Terminate the work/training release plan and return the work/training release offender to an institution/jail, or facility.

(2) Nothing in this section shall preclude subsequent reclassification of the work/training release offender or placement into administrative segregation if demonstrable cause exists to support this action.

(3) The hearing officer shall notify the offender orally within one working day and confirm the decision in writing within five working days. The written decision shall specify the evidence upon which the hearing officer relied and shall include a description of the circumstances surrounding the allegation(s) upon which the termination of the work/training release is based, the reasons for the decision, a discussion of

the offender's personal culpability in the actions which have led to the termination, and an evaluation of the offender's progress, attitudes, need for further programs including work training alternatives.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. 05-24-009 and 06-02-038, § 137-56-240, filed 11/28/05 and 12/28/05, effective 5/1/06. 94-07-065, § 137-56-240, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. 86-06-012 (Order 86-02), § 137-56-240, filed 2/21/86; 82-08-055 (Order 82-06), § 137-56-240, filed 4/5/82. Formerly WAC 275-92-550.]

WAC 137-56-250 Disciplinary hearing—Appeal.

The offender may appeal the decision of the hearing officer to the area appeals panel. Appeal requests must be in writing, must be specific and based on objection to the procedures used or the information available to the hearing officer in making his or her decision. Appeals must be submitted within seven calendar days of the hearing officer's written decision. For reasons of community protection, all sanctions ordered by the hearing officer will be imposed following the hearing and will not be stayed. The appeals panel, upon receipt of an appeal, will review the findings and decision of the hearing officer and either:

(1) Affirm, or affirm and modify to a lesser sanction the decision of the hearing officer; or

(2) Reverse the decision of the hearing officer; or

(3) Remand for a rehearing.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. 05-24-009 and 06-02-038, § 137-56-250, filed 11/28/05 and 12/28/05, effective 5/1/06. 95-22-060, § 137-56-250, filed 10/30/95, effective 12/1/95. 94-07-065, § 137-56-250, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. 86-06-012 (Order 86-02), § 137-56-250, filed 2/21/86; 83-10-042 (Order 83-05), § 137-56-250, filed 5/2/83; 82-08-055 (Order 82-06), § 137-56-250, filed 4/5/82. Formerly WAC 275-92-555.]

Chapter 137-70 WAC

REIMBURSEMENT FOR CRIMINAL JUSTICE COSTS AND CONTINGENCY PLAN EXPENSES

WAC

137-70-040

Reimbursable impacts/rates—Criminal justice costs.

WAC 137-70-040 Reimbursable impacts/rates—Criminal justice costs. Reimbursement shall be restricted to fully documented law enforcement, prosecutorial, judicial and jail facility costs, as defined herein, at the actual costs of the submitting jurisdiction, not to exceed the following rates:

(1) Law enforcement costs are costs incurred by any political subdivision in apprehending escapees, in investigating crimes committed by state institutional inmates including pretrial investigations within or outside the institution, or in providing security for inmates outside the jail facility. These costs are reimbursable at the following rates: \$23.96 per hour.

(2) If an escape or investigation results in the filing of a criminal complaint, the impacted political subdivision shall be entitled to attorney costs associated with the prosecution and/or defense of the filed action. These costs are reimbursable at the following maximum rates: \$57.32 per hour.

(3) Reimbursement for judicial costs incurred as a result of the filing of a criminal complaint shall be limited to judges, court reporters, transcript typing or preparation, witness fees

and jury fees. These costs are reimbursable at the following maximum rates:

(a) Judges - \$57.32 per hour. These costs shall include the services of court clerks and bailiffs.

(b) Court reporters - \$24.71 per hour.

(c) Transcript typing services - \$4.79 per page.

(d) Expert witnesses - \$80.43 per hour.

(e) Witness fees/nonexpert - jury fees - reimbursable at the rate established by the local governmental legislative authority up to a maximum of \$36.11 per day.

(4) Jail facility costs resulting from the escape or criminal complaint shall be reimbursed at the rates established by OFM.

(5) Coroner - Where an inmate dies as a result of criminal activity of another inmate, coroner costs incurred by a local jurisdiction may be reimbursed up to a maximum amount established by the department as reasonable.

(6) Medical costs - Where an inmate is in the custody of a local jurisdiction as a result of a crime committed while incarcerated in a state institution, extraordinary medical costs, beyond the routine medical services of the jail, may be reimbursed at the discretion of the department. Counties, cities, and towns shall notify the department prior to incurring expenses for extraordinary medical expenses, where practicable, to allow the department an opportunity to provide the necessary medical care directly.

[Statutory Authority: RCW 72.01.090, 72.72.040, 06-02-002, § 137-70-040, filed 12/21/05, effective 1/21/06. Statutory Authority: RCW 34.04.025, 89-12-003 (Order 89-04), § 137-70-040, filed 5/25/89. Statutory Authority: RCW 72.72.040, 87-22-064 (Order 87-04), § 137-70-040, filed 11/3/87; 87-14-044 (Order 87-02), § 137-70-040, filed 6/30/87; 87-03-029 (Order 86-07), § 137-70-040, filed 1/14/87; 86-02-053 (Order 85-13), § 137-70-040, filed 12/31/85. Statutory Authority: Chapter 72.72 RCW, 85-12-020 (Order 85-08), § 137-70-040, filed 5/29/85, effective 7/1/85. Statutory Authority: RCW 72.72.040, 84-11-033 (Order 84-06), § 137-70-040, filed 5/14/84. Statutory Authority: Chapter 34.04 RCW, 83-24-058 (Order 83-13), § 137-70-040, filed 12/6/83. Statutory Authority: Chapter 72.72 RCW, 82-17-044 (Order 82-10), § 137-70-040, filed 8/16/82.]

Title 139 WAC

CRIMINAL JUSTICE TRAINING COMMISSION

Chapters

139-03	Procedures.
139-05	Law enforcement.
139-10	Corrections.

Chapter 139-03 WAC

PROCEDURES

WAC

139-03-010	Adoption of model rules of procedure.
139-03-020	Request for adjudicative proceedings.
139-03-045	Prehearing conferences.
139-03-075	Review of initial orders.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

139-03-040	Method of recording. [Statutory Authority: RCW 43.101.080, 00-17-017, § 139-03-040, filed 8/4/00, effective 9/4/00.] Repealed by 05-07-049, filed 3/11/05, effective 4/11/05. Statutory Authority: RCW 43.101.080.
139-03-050	Discovery. [Statutory Authority: RCW 43.101.080, 00-17-017, § 139-03-050, filed 8/4/00, effective 9/4/00.] Repealed by 05-07-049, filed 3/11/05, effective 4/11/05. Statutory Authority: RCW 43.101.080.
139-03-060	Procedure for closing parts of hearings. [Statutory Authority: RCW 43.101.080, 00-17-017, § 139-03-060, filed 8/4/00, effective 9/4/00.] Repealed by 05-07-049, filed 3/11/05, effective 4/11/05. Statutory Authority: RCW 43.101.080.

WAC 139-03-010 Adoption of model rules of procedure. Practice and procedure before the commission shall be in accordance with the model rules of procedure adopted by the chief administrative law judge pursuant to RCW 34.05.-250, as now or hereafter amended. The model rules hereby adopted are found in chapter 10-08 WAC. Other procedural rules adopted in this title are supplementary to the model rules of procedure. In the case of a conflict between the model rules of procedure and the procedural rules adopted in this title, the procedural rules adopted in this title shall govern.

Peace officer certification proceedings before the commission are governed by chapter 139-06 WAC.

[Statutory Authority: RCW 43.101.080, 05-07-049, § 139-03-010, filed 3/11/05, effective 4/11/05; 00-17-017, § 139-03-010, filed 8/4/00, effective 9/4/00.]

WAC 139-03-020 Request for adjudicative proceedings. (1) All applications requesting that the commission conduct an adjudicative proceeding shall be made on a form provided by the commission for that purpose. The application must specify the issue to be brought before the commission, including:

- (a) The action for which review is requested, identified by date and description of action;
- (b) The direct and adverse effects of such action;
- (c) The corrective or remedial action or other relief sought;
- (d) The name and mailing address of the requesting party; and
- (e) A statement that the person signing the request for review has read it and that to the best of their knowledge or information and belief the contents thereof are true.

(2) Applications for adjudicative proceedings shall be made within thirty calendar days of:

- (a) Service upon the applicant of the proposed commission action giving rise to the application; or
- (b) Notice to the applicant from any source of action by the commission or commission staff which the applicant believes will adversely affect the applicant.

(3) Failure of an applicant to file an application for an adjudicative proceeding within the time limits set forth in subsection (2) of this section, constitutes a default and results in the loss of the applicant's right to an adjudicative proceeding. The commission may proceed to resolve the matter pursuant to RCW 34.05.440(1).

(4) An application for adjudicative proceeding must be served personally or delivered by certified mail upon the director of the commission.

(5) The commission will process applications for adjudicative proceedings in accordance with RCW 34.05.416 and 34.05.419.

(6) If the commission decides to proceed with an adjudicative proceeding, the director will designate a presiding officer, which may be an administrative law judge from the state office of administrative hearings. The presiding officer will: Schedule and conduct an adjudicative proceeding under chapter 34.05 RCW; and

(7) Upon receiving a request for adjudicative proceeding, the commission may at the request of the applicant, or on its own initiative, schedule an informal settlement conference that shall be without prejudice to the rights of the parties.

(8) This section shall not apply to a request for a variance or exemption pursuant to WAC 139-03-030.

[Statutory Authority: RCW 43.101.080. 05-07-049, § 139-03-020, filed 3/11/05, effective 4/11/05; 00-17-017, § 139-03-020, filed 8/4/00, effective 9/4/00.]

WAC 139-03-045 Prehearing conferences. The presiding officer shall hold one or more prehearing conferences in each case, which may be held telephonically and shall be attended by the parties or their attorneys. The parties shall be prepared to discuss the timing and filing of any motions, and witness and exhibit lists, as well as the need for discovery, in addition to those matters identified in WAC 10-08-130(1). A prehearing order shall be issued at the conclusion of the conference.

[Statutory Authority: RCW 43.101.080. 05-07-049, § 139-03-045, filed 3/11/05, effective 4/11/05.]

WAC 139-03-075 Review of initial orders. The initial order will become final unless, within thirty days of mailing of the initial order to the parties, the commission determines that the initial order should be reviewed or a party to the proceedings files a petition for review of the initial order. A petition for review shall set forth in detail the grounds for review and the party filing the petition shall be deemed to have waived all objections or claims of irregularities not specifically set forth therein. The initial order will be considered by the commission at the next succeeding regularly scheduled meeting of the commission at which review can practicably be conducted. The commission shall thereafter enter a final order.

[Statutory Authority: RCW 43.101.080. 05-07-049, § 139-03-075, filed 3/11/05, effective 4/11/05.]

Chapter 139-05 WAC LAW ENFORCEMENT

WAC

139-05-200	Requirement of basic law enforcement training.
139-05-205	Administrative exemption.
139-05-210	Basic law enforcement certificate of equivalency.
139-05-220	Backgrounding requirement for admission to basic law enforcement academy.
139-05-230	Physical requirements for admission to basic law enforcement academy.
139-05-240	Requirements of basic law enforcement academy.
139-05-242	Readmission to basic law enforcement academy.

139-05-250	Basic law enforcement curriculum.
139-05-300	Requirement for in-service training.
139-05-810	Basic training requirement for reserve officers.
139-05-912	Requirement of training for state fire marshals.
139-05-915	Requirements of training for law enforcement and corrections dog handlers and certification of canine teams.
139-05-920	Requirement of training for agriculture officers.
139-05-925	Requirement of training for railroad police officers.
139-05-935	Review of staff action.
139-05-940	Exemption, waiver, extension or variance.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

139-05-820	Basic reserve equivalency certification. [Statutory Authority: RCW 43.101.080. 03-07-099, § 139-05-820, filed 3/19/03, effective 4/19/03; 02-02-004, § 139-05-820, filed 12/20/01, effective 1/20/02.] Repealed by 05-20-029, filed 9/28/05, effective 10/29/05. Statutory Authority: RCW 43.101.080.
139-05-930	Certification/decertification of D.A.R.E. officer. [Statutory Authority: RCW 43.101.080(2). 91-01-042, § 139-05-930, filed 12/12/90, effective 1/12/91.] Repealed by 05-20-029, filed 9/28/05, effective 10/29/05. Statutory Authority: RCW 43.101.080.

WAC 139-05-200 Requirement of basic law enforcement training. (1) All fully commissioned law enforcement officers of a city, county, or political subdivision of the state of Washington, except volunteers and reserve officers, whether paid or unpaid, and officers of the Washington state patrol, unless otherwise exempted by the commission must, as a condition of continued employment, successfully complete a basic law enforcement academy or an equivalent basic academy sponsored or conducted by the commission. Basic law enforcement training must be commenced within the initial six-month period of law enforcement employment, unless otherwise extended by the commission.

(2) Law enforcement personnel exempted from the requirement of subsection (1) of this section include:

(a) Individuals holding the office of sheriff of any county on September 1, 1979; and

(b) Commissioned personnel:

(i) Whose initial date of full-time, regular and commissioned law enforcement employment within the state of Washington precedes January 1, 1978; or

(ii) Who have received a certificate of completion in accordance with the requirement of subsection (1) of this section, and thereafter have engaged in regular and commissioned law enforcement employment without break or interruption in excess of twenty-four months duration.

(3) Each law enforcement agency of the state of Washington, or any political subdivision thereof, must immediately notify the commission by approved form of each instance where a commissioned officer begins continuing and regular employment with that agency.

(4) Failure to comply with any of the above requirements of basic law enforcement training will result in notification of noncompliance by the commission to:

(a) The individual in noncompliance;

(b) The head of his/her agency; and

(c) Any other agency or individual, as determined by the commission.

[Statutory Authority: RCW 43.101.080. 05-20-029, § 139-05-200, filed 9/28/05, effective 10/29/05; 03-19-123, § 139-05-200, filed 9/17/03, effective 10/18/03; 00-17-017, § 139-05-200, filed 8/4/00, effective 9/4/00. Statutory Authority: RCW 43.101.080(2). 89-13-024 (Order 14D), § 139-05-

200, filed 6/13/89; 87-19-104 (Order 14-D), § 139-05-200, filed 9/18/87; 86-19-021 (Order 1-B), § 139-05-200, filed 9/10/86.]

WAC 139-05-205 Administrative exemption. Commissioned personnel may be granted an administrative exemption by the commission. A request for administrative exemption must be made under WAC 139-03-030. The initial grant and continuing effect of such exemption is governed by the following:

(1) No police chief or sheriff of any agency with ten or fewer commissioned officers is eligible to receive an exemption;

(2) Any request for an exemption must be submitted to the commission on an approved form with a criminal records check completed by the Washington state patrol, a current resume, and, in any instance where the requestor is a police chief, the request must be cosigned by the requestor's appointing authority;

(3) Any individual receiving an exemption may not engage in patrol or other general enforcement activity on a usual or regular basis but must limit such involvement to that required for supervision, agency management, or manpower replacement on an emergency or exigent basis;

(4) Any approved administrative exemption will remain in effect for the duration of the exemptee's term of service in the position upon which an exemption is based or until the nature of the exemptee's primary duties and responsibilities changes from administrative to general enforcement; and

(5) Any approved administrative exemption may be revoked by the commission at any time upon a finding that the conditions of an exemption are not being met or the basis for the exemption no longer exists.

[Statutory Authority: RCW 43.101.080. 05-20-029, § 139-05-205, filed 9/28/05, effective 10/29/05.]

WAC 139-05-210 Basic law enforcement certificate of equivalency. (1) A certificate of completion of equivalent basic law enforcement training is issued to applicants who successfully complete the equivalency process as required by the commission. For this purpose, the term "process" includes all documentation and prerequisites set forth in subsection (6) of this section and successful completion of all knowledge and skills requirements within the equivalency academy. A certificate of completion of equivalent basic law enforcement training is recognized in the same manner as the certificate of completion of the basic law enforcement academy.

(2) Participation in the equivalency process is limited to fully commissioned law enforcement officers of a city, county, or political subdivision of the state of Washington, who otherwise are eligible to attend the basic law enforcement academy and who have attained commissioned law enforcement status by completing a basic training program in this or another state. For this purpose, the term "basic training program" does not include any military or reserve training program or any federal training program not otherwise approved by the commission.

(3) Applicants who are approved to participate in the equivalency academy must attend the first available session of the equivalency academy following such applicant's date of hire. Applicants are not required to attend a session of the

equivalency academy conducted within the initial sixty days of employment.

It is the responsibility of the applicant's agency to ensure that all necessary forms and documentation are completed and submitted to the commission in a timely manner, and as necessary, to ensure that the participation provided by this section is effected.

(4) In those instances where an applicant has attended more than one basic training program, eligibility for participation in the equivalency process will be based upon successful completion of the most recent of such programs attended.

(5) The decision to request an officer's participation in the equivalency process discretionary with the head of the officer's employing agency, who must advise the commission of that decision by appropriate notation upon the hiring notification form. Upon receipt of such notification, the commission will provide all necessary forms and information.

(6) Upon approval of an applicant's eligibility to participate in the equivalency process, the applicant's employing agency must submit to the commission the following documentation as a precondition of participation within such process:

(a) A copy of the applicant's current and valid driver's license;

(b) A copy of the applicant's current and valid basic first-aid card;

(c) A statement of the applicant's health and physical condition by an examining physician;

(d) A record of the applicant's firearms qualification;

(e) A liability release agreement by the applicant; and

(f) A criminal records check regarding such applicant.

(7) If comparable emergency vehicle operations training has not been completed previously, the applicant will be required to complete the commission's current emergency vehicle operation course, as scheduled by the commission.

(8) Upon completion of the equivalency process and review and evaluation of the applicant's performance, the commission will:

(a) Issue a certificate of completion of equivalent basic law enforcement training; or

(b) Issue a certificate of completion of equivalent basic law enforcement training upon the applicant's successful completion of additional training as the commission may require; or

(c) Require completion of the commission's basic law enforcement academy.

[Statutory Authority: RCW 43.101.080. 05-20-029, § 139-05-210, filed 9/28/05, effective 10/29/05; 04-13-070, § 139-05-210, filed 6/15/04, effective 7/16/04; 03-07-099, § 139-05-210, filed 3/19/03, effective 4/19/03; 00-17-017, § 139-05-210, filed 8/4/00, effective 9/4/00. Statutory Authority: RCW 43.101.080(2). 86-19-021 (Order 1-B), § 139-05-210, filed 9/10/86.]

WAC 139-05-220 Backgrounding requirement for admission to basic law enforcement academy. It is the responsibility of each sponsoring or applying agency to conduct a complete criminal records check to include a search of state and national criminal history records information regarding its applicant through the submission of the applicant's fingerprints to an appropriate agency or agencies. No individual will be granted academy admission or allowed continued participation if the individual is not otherwise eli-

gible for certification or has been convicted of a crime that would make him or her ineligible for certification.

Each application for academy attendance must be accompanied by a written attestation by the applying agency that (1) the criminal records check has been completed, and (2) there are no disqualifying convictions.

[Statutory Authority: RCW 43.101.080. 05-20-029, § 139-05-220, filed 9/28/05, effective 10/29/05; 00-17-017, § 139-05-220, filed 8/4/00, effective 9/4/00. Statutory Authority: RCW 43.101.080(2). 86-19-021 (Order 1-B), § 139-05-220, filed 9/10/86.]

WAC 139-05-230 Physical requirements for admission to basic law enforcement academy. Each successful applicant for admission to a basic law enforcement academy sponsored or conducted by the commission must possess good health and physical capability to actively and fully participate in defensive tactics training and other required physical activities. In order to minimize risk of injury and maximize the benefit of such participation, each recruit in any academy session must, as a precondition of his or her academy attendance, demonstrate a requisite level of physical fitness, as established by the commission.

For this purpose, each academy applicant will be assessed in the areas of aerobic capacity, strength, and flexibility, in accordance with the requirements and procedures established by the commission.

Failure to demonstrate a requisite level of fitness will result in ineligibility for academy admissions and/or attendance.

[Statutory Authority: RCW 43.101.080. 05-20-029, § 139-05-230, filed 9/28/05, effective 10/29/05; 00-17-017, § 139-05-230, filed 8/4/00, effective 9/4/00. Statutory Authority: RCW 43.101.080(2). 91-14-011, § 139-05-230, filed 6/24/91, effective 7/25/91; 91-01-043, § 139-05-230, filed 12/12/90, effective 7/1/91; 89-13-023 (Order 12C), § 139-05-230, filed 6/13/89; 86-19-021 (Order 1-B), § 139-05-230, filed 9/10/86.]

WAC 139-05-240 Requirements of basic law enforcement academy. Each recruit in a basic law enforcement academy will receive a certificate of completion only upon full and successful completion of the academy process as prescribed by the commission. The performance of each recruit will be evaluated as follows:

(1) Academic performance. A standardized examination process will be utilized by all basic law enforcement academies sponsored or conducted by the commission in evaluating the level of scholastic achievement of each recruit. Such process will include the application of a designated minimum passing score to each subject area and the availability of a retesting procedure. Failure to achieve the required minimum passing score will result in termination of academy assignment.

(2) Practical skills. A standardized evaluation process will be utilized by all basic law enforcement academies sponsored or conducted by the commission in evaluating the level of practical performance of each recruit. Such process will include the application of pass/fail grading to designated instructional objectives for physical performance and the availability of a retesting procedure. Failure to achieve a final passing grade in each practical skills dimension will preclude a certificate of completion.

(3) Conduct. Failure to maintain an exemplary standard of conduct or to adhere to all rules, regulations, and policies

of a basic law enforcement academy sponsored or conducted by the commission may result in termination of academy assignment.

[Statutory Authority: RCW 43.101.080. 05-20-029, § 139-05-240, filed 9/28/05, effective 10/29/05; 00-17-017, § 139-05-240, filed 8/4/00, effective 9/4/00. Statutory Authority: RCW 43.101.080(2). 93-13-098, § 139-05-240, filed 6/21/93, effective 7/22/93; 86-19-021 (Order 1-B), § 139-05-240, filed 9/10/86.]

WAC 139-05-242 Readmission to basic law enforcement academy. No person may be readmitted to the basic law enforcement training academy except as provided in this section.

(1) Any request for readmission to any academy must be made and submitted by the individual's employing or sponsoring agency.

(2) Any individual terminated from any academy for academic failure, for disciplinary reasons other than those specified by subsection (3) of this section, or who has voluntarily withdrawn from any academy for any reason, may be readmitted to a subsequent academy session only if:

(a) The head of the individual's current employing agency submits to the commission a written request for readmission of the individual to the academy program, and

(b) The director of the commission or designee is satisfied that any conditions to the individual's readmission specified by the director or designee have been met.

(3) Any person dismissed from any academy for an integrity violation, including but not limited to: Cheating, the commission of a crime, or other violation not constituting disqualifying misconduct as defined in RCW 43.101.010(7), will not be eligible for readmission to any subsequent academy within twenty-four months from the date of dismissal. Such ineligibility will not be affected by any new employment or reemployment during the period of ineligibility specified in the preceding sentence of this subsection.

(4) After the ineligibility period specified in subsection (3) of this section has passed, the person previously dismissed for an integrity violation may be readmitted to a subsequent academy session only if he or she satisfies the conditions of subsection (2) of this section.

(5) For purposes of this section, reserves and volunteers will be deemed to be employees of the agencies which sponsor them for participation in a training academy.

[Statutory Authority: RCW 43.101.080. 05-20-029, § 139-05-242, filed 9/28/05, effective 10/29/05; 04-19-050, § 139-05-242, filed 9/14/04, effective 10/15/04; 00-17-017, § 139-05-242, filed 8/4/00, effective 9/4/00. Statutory Authority: RCW 43.101.080(2). 93-13-103, § 139-05-242, filed 6/21/93, effective 7/22/93.]

WAC 139-05-250 Basic law enforcement curriculum. The basic law enforcement curriculum of the commission may include, but not be limited to, the following core subject areas with common threads of communications, community policing, and professional ethics throughout:

- (1) Orientation and history of policing;
- (2) Criminal law;
- (3) Criminal procedures;
- (4) Patrol procedures;
- (5) Crisis intervention;
- (6) Emergency vehicle operation course;
- (7) Report writing;

- (8) Traffic law;
- (9) Firearms;
- (10) Defensive tactics; and
- (11) Criminal Investigation.

[Statutory Authority: RCW 43.101.080. 05-20-029, § 139-05-250, filed 9/28/05, effective 10/29/05; 00-17-017, § 139-05-250, filed 8/4/00, effective 9/4/00. Statutory Authority: RCW 43.101.010(2). 93-13-097, § 139-05-250, filed 6/21/93, effective 7/22/93. Statutory Authority: RCW 43.101.080(2). 86-19-021 (Order 1-B), § 139-05-250, filed 9/10/86.]

WAC 139-05-300 Requirement for in-service training. The commission recognizes that continuing education and training is the cornerstone for a successful career as a peace officer in providing competent public safety services to the communities of Washington state.

(1) Effective January 1, 2006, every peace officer certified under RCW 43.101.095 will complete a minimum of twenty-four hours of in-service training annually.

(a) This requirement is effective January 1, 2006, for incumbent officers.

(b) The in-service training requirement for each newly hired officer must begin on January 1 of the calendar year following their certification as a result of successful completion of the basic law enforcement academy, equivalency academy, or approved waiver as provided by WAC 139-05-205.

(c) Training may be developed and provided by the employer or other training resources.

(d) The commission will publish guidelines for approved in-service training.

(2) All records for training required for this rule must be maintained by the employing agency and be available for review upon request by an authorized commission representative.

(a) The commission will maintain records of successfully completed commission-registered courses.

(b) Upon request, the commission will furnish a record-keeping template for use by agencies to track training.

(3) The sheriff or chief of an agency may approve an extension of three months for certified officers in their employ by notification in writing to the commission, identifying those specific officers.

(a) A sheriff or chief may request a three-month personal extension of the requirement by doing so in writing to the commission.

(b) Written requests submitted under the provision of this subsection must be received by December 1 of the calendar year in question.

[Statutory Authority: RCW 43.101.080. 05-20-029, § 139-05-300, filed 9/28/05, effective 10/29/05; 05-01-112, § 139-05-300, filed 12/15/04, effective 1/15/05.]

WAC 139-05-810 Basic training requirement for reserve officers. (1) For the purposes herein:

(a) "Reserve officer" includes any law enforcement officer who does not serve as a law enforcement officer of this state on a full-time basis, but who, when called by such agency into active service, is fully commissioned on the same basis as full-time officers to enforce the criminal laws of this state; and

(b) "Field assignment" includes any period of active service wherein the assigned officer is expected to take routine

and/or special enforcement actions, independently or otherwise, in the same manner and capacity as a full-time officer with such assignment.

(2) For the purposes of the Washington Mutual Aid Peace Officers Powers Act, chapter 10.93 RCW, every individual who is commissioned as a specially commissioned reserve peace officer in this state will obtain a basic reserve certificate as a precondition of the exercise of authority pursuant to such act; provided that, any individual possessing a basic reserve certificate issued by the commission prior to January 1, 1989, will be deemed to have met this requirement.

(3) Upon approval of an applicant's eligibility to participate in the reserve process, the applicant's employing agency must submit to the commission all requested records, information and proof of background check as a precondition of participation within such process.

(4) Each applicant that has been offered a conditional offer of employment as a reserve officer must take and successfully pass a psychological and a polygraph test or similar assessment procedure, administered pursuant to RCW 43.101.105 (2)(a)(i) and (ii).

(5) A basic reserve certificate will be issued by the commission to any individual who successfully completes a basic course of instruction for reserve officers as prescribed and required by the commission.

(6) Requirements of subsection (5) of this section may be waived in whole or in part. A request for waiver must be made under WAC 139-03-030. In reviewing such request, the commission will consider the following:

(a) An evaluation of an applicant's experience and training accomplishments;

(b) The fact that an individual is a regular full-time commissioned law enforcement officer who leaves full-time employment; or

(c) The fact that an officer has been certified in accordance with the requirements of subsection (2) of this section, and thereafter has engaged in regular and commissioned law enforcement employment without break or interruption in excess of twelve months duration.

[Statutory Authority: RCW 43.101.080. 05-20-029, § 139-05-810, filed 9/28/05, effective 10/29/05; 02-02-004, § 139-05-810, filed 12/20/01, effective 1/20/02; 00-17-017, § 139-05-810, filed 8/4/00, effective 9/4/00. Statutory Authority: RCW 43.101.080(2). 88-20-022 (Order 20), § 139-05-810, filed 9/28/88.]

WAC 139-05-912 Requirement of training for state fire marshals. (1) The training prescribed herein constitutes that the training requirement which must be met by deputy state fire marshals as a precondition of any exercise of police powers granted to such personnel by RCW 48.48.060.

(2) The training requirement herein prescribed for the purpose of RCW 48.48.060 will be met by:

(a) Obtaining the commission's basic law enforcement certificate; or

(b) Obtaining the commission's basic law enforcement equivalency certificate and completion of other training as may be required by the agency.

(3) No authorization, expressed or implied, to carry a firearm in the performance of official duties may be granted to any deputy state fire marshal unless such personnel has

successfully completed a basic firearms training program. Such program must be at least forty hours in length and include instruction in firearms care, handling, and usage, and a range qualification course approved by the commission. Thereafter, it shall be the responsibility of the chief of the state patrol to set the standard, which will be met for each fire marshal to carry a firearm.

(4) It is the responsibility of the state fire marshal to effect and ensure personnel compliance and to provide documentation of such compliance upon the request of the commission.

[Statutory Authority: RCW 43.101.080, 05-20-029, § 139-05-912, filed 9/28/05, effective 10/29/05; 00-17-017, § 139-05-912, filed 8/4/00, effective 9/4/00. Statutory Authority: RCW 43.101.080(2), 93-13-101, § 139-05-912, filed 6/21/93, effective 7/22/93.]

WAC 139-05-915 Requirements of training for law enforcement and corrections dog handlers and certification of canine teams. (1) Title and scope: These rules are intended to set minimum standards of performance for the certification of canine teams that are used for law enforcement or corrections purposes. This process is not related to nor does it have any effect upon the requirements for peace officer certification. Nothing in these rules is intended to limit the use of canine teams employed by other state or federal agencies for law enforcement purposes, or the use of volunteer canine teams where the handler is not a Washington peace officer or corrections officer.

(2) For purposes of this section, the following definitions will apply:

(a) "Dog handler" means any fully commissioned law enforcement officer or corrections officer of a state, county, city, municipality, or combination thereof, agency who is responsible for the routine care, control, and utilization of a police canine within a law enforcement or corrections assignment; and

(b) "Canine team" means a specific officer and a specific canine controlled by that officer in the capacity of handler, formally assigned by the employing agency to work together in the performance of law enforcement or corrections duties.

(c) "Training" means any structured classroom or practical learning exercise conducted, evaluated, and documented by an experienced dog handler or trainer, certified as an instructor with recognized expertise on canine subjects associated with the development of the trainee's competency in the care, control, and utilization of a police canine.

(d) "Evaluator" means a certified peace officer or corrections officer, who has a minimum of three years experience as a dog handler and is recognized as a trainer of canines by a professional organization of police and/or corrections dog handlers/trainers or by the handler's employing agency. The trainer must have trained a canine team in accordance with the training requirements of WAC 139-05-915, or be recognized by the commission as a certified instructor with expertise in canine training of a specific police canine subject for the purpose of testing and certifying dog handlers and canines to work as a canine team.

(3) A dog handler must, as a precondition of such assignment, successfully complete the basic law enforcement academy or basic corrections officer academy, or otherwise com-

ply with the basic training requirement prescribed by WAC 139-05-200 and 139-05-210 of the commission.

(4) Prior to such assignment, a dog handler must successfully complete training according to the nature and purpose of utilization of the police canine for which such handler is responsible.

(a) A dog handler who is responsible for the routine and regular utilization of a police canine within general patrol or investigative activities, must successfully complete a minimum of four hundred hours of training, which will include, but not be limited to:

- (i) Philosophies/theories of police canine;
- (ii) Legal and liability aspects, including applicable department policies;
- (iii) Public relations;
- (iv) Care and maintenance;
- (v) Obedience and control;
- (vi) Tracking;
- (vii) Trailing;
- (viii) Area search;
- (ix) Building search;
- (x) Evidence search;
- (xi) Pursuit and holding; and
- (xii) Master protection.

(b) A dog handler who is responsible for the primary and specialized utilization of a police canine in the search for and detection of specific substances, excluding explosives, must successfully complete a minimum of two hundred hours of training, which will include, but not be limited to:

- (i) Philosophies/theories of police canine;
- (ii) Legal and liability aspects, including applicable department policies;
- (iii) Public relations;
- (iv) Care and maintenance;
- (v) Obedience and control;
- (vi) Area search;
- (vii) Building search;
- (viii) Evidence search;
- (ix) Vehicle search; and
- (x) Detection of specific substances.

(c) A dog handler who is responsible for the primary and specialized utilization of a police canine in the search for and detection of explosive substances and devices, must successfully complete a minimum of four hundred hours of training, which will include, but not be limited to:

- (i) Philosophies/theories of police canine;
- (ii) Legal and liability aspects, including applicable department policies;
- (iii) Public relations;
- (iv) Care and maintenance;
- (v) Obedience and control;
- (vi) Area search;
- (vii) Private and commercial conveyance search;
- (viii) Building search;
- (ix) Evidence search; and
- (x) Detection of explosives.

(d) A dog handler who is responsible for the routine and regular utilization of a police canine solely for self-protection and assistance in hostile or potentially hostile situations, must successfully complete at least two hundred hours of training, which will include, but not be limited to:

- (i) Philosophies/theories of police canine;
- (ii) Legal and liability aspects, including applicable department policies;
- (iii) Public relations;
- (iv) Care and maintenance;
- (v) Obedience and control;
- (vi) Pursuit and holding; and
- (vii) Master protection.

(5) The commission will develop and adopt a minimum performance standard for canine teams performing specific law enforcement or corrections functions. It is the handler's responsibility to keep their canines under control at all times. Each handler must be able to make their canine perform to a level that is deemed acceptable by the commission in the category for the team's intended use as a condition of certification.

(6) Certification of canine teams:

(a) The handler and the canine will be considered as a team and it is the team who will be certified. If the canine or the handler changes, a new team exists and the team must be certified.

(b) A dog handler may not use a canine for police purposes unless the handler is certified to handle a specific canine for a specific purpose.

(c) In evaluating the proficiency of the canine team, the evaluators shall use the standards approved by the commission for that particular skill category. Performance will be rated on a pass/fail basis. The evaluator has the discretion to discontinue the testing if excessive time has been spent without results, or if there is a concern about safety issues involving the canine, handler, or equipment.

(d) The commission will certify a canine team who can successfully show proficiency, under scrutiny of a canine evaluator, in all of the areas in which the canine will be used:

(i) Patrol and investigation:

- (A) Obedience;
- (B) Protection and control;
- (C) Area search;
- (D) Building search; and
- (E) Tracking.

(ii) Detection:

- (A) Building search;
- (B) Vehicle search;
- (C) Exterior search; and
- (D) Obedience.

(iii) Explosive detection:

- (A) Obedience;
- (B) Building search;
- (C) Private and commercial conveyance search;
- (D) Exterior search.

(iv) Master protection:

- (A) Obedience;
- (B) Protection and control.

(e) Each certification issued pursuant to these rules will remain valid as long as the composition and responsibility of the canine team does not change. A canine team's certification expires if the specific handler and canine, originally paired at the time of certification, cease to perform canine team functions together or if the function for which the team was certified changes. It is recommended that teams recertify on an annual basis.

(f) If the canine team fails any phase of an evaluation, the team must be reevaluated in that particular phase. Canine teams will be allowed three attempts to successfully pass the requirements of each phase during an evaluation. If the team does not pass by the third attempt, the team must be reevaluated in all phases at a different time to be scheduled by the evaluator and approved by the commission.

(7) Recordkeeping:

(a) Each agency is required to keep training, performance, and identification records on canines. The records must stay with the agency responsible for the canine team. The records will be made available for review in the event that the canine is sold or transferred to another agency. The records will include, but not be limited to:

- (i) Microchip number (if applicable);
- (ii) Canine's name;
- (iii) Breed;
- (iv) Training records;
- (v) Certification date;
- (vi) Date acquired or purchased;
- (vii) Source from which the canine was acquired;
- (viii) Purpose, use, or assignment of canine;
- (ix) Handler's name;
- (x) The date and reason the canine was released from service; and

(xi) Copies of all incident reports in which use of the canine resulted in the use of force.

(b) These records must be retained for a period of one year from the date the canine is removed from active service unless a longer retention is required by statute or local ordinance.

(c) It is the responsibility of the handler to advise their employing agency of the fact that they have met the standards for canine certification. The proof of certification with the evaluator's signature along with a request for canine certification must be submitted to the commission by the employing agency. This will be considered as a request for certification. Upon verification that the minimum requirements have been met, the commission will issue certification to the canine team.

(8) It is recommended that a canine intended for use by a law enforcement or corrections agency, be positively identified by having a microchip medically inserted in the canine. Any canine that is sold by a vendor to a Washington state governmental agency for use as a law enforcement or corrections canine should be able to be identified by microchip placed in the canine at the vendor's expense prior to the canine being sold to the law enforcement or corrections agency.

Once the microchip has been inserted, it is recommended that it not be removed except for medical necessity. If it becomes necessary to remove the microchip, the reason for the removal must be documented and entered into the canine's training records and a new microchip inserted, if medically appropriate.

[Statutory Authority: RCW 43.101.080, 05-20-029, § 139-05-915, filed 9/28/05, effective 10/29/05; 05-01-114, § 139-05-915, filed 12/15/04, effective 1/15/05; 03-07-100, § 139-05-915, filed 3/19/03, effective 4/19/03; 00-17-017, § 139-05-915, filed 8/4/00, effective 9/4/00. Statutory Authority: RCW 43.101.080(2), 86-19-021 (Order 1-B), § 139-05-915, filed 9/10/86.]

WAC 139-05-920 Requirement of training for agriculture officers. (1) For purposes of this regulation, the term "agriculture officer" means any individual appointed by the state director of agriculture to enforce those laws relating to the department of agriculture.

(2) As a precondition of any exercise of enforcement authority, an agriculture officer must successfully complete training which will include, but is not limited to:

- (a) Crime scene investigation;
- (b) Criminal investigation;
- (c) Effective interviewing and interrogation;
- (d) Report writing;
- (e) Criminal law to include Titles 9A and 20;
- (f) Officer safety;
- (g) Defensive tactics.

(3) As a precondition of any authorization to carry a firearm during the performance of duties, an agriculture officer with enforcement authority will have successfully qualified in the firearms course which is incorporated by the basic law enforcement academy program of the commission, or is otherwise approved by the commission. Following the initial qualification, the department of agriculture must insure that such qualification be effected annually or within a period of twelve months preceding the aforementioned firearms authorization.

(4) It is the responsibility of the state director of agriculture to effect and ensure personnel compliance and to provide necessary records and information upon the request of the commission, to which said director is accountable for purposes of such compliance. Additionally, any equivalency process or official recognition of equivalent training or experience in determining an agriculture officer's compliance will be within the prerogative and authorities of such director.

[Statutory Authority: RCW 43.101.080. 05-20-029, § 139-05-920, filed 9/28/05, effective 10/29/05. Statutory Authority: RCW 43.101.080(2). 86-19-021 (Order 1-B), § 139-05-920, filed 9/10/86.]

WAC 139-05-925 Requirement of training for railroad police officers. (1) For the purpose of this regulation, the term "railroad police" means any individual appointed by the commission under the provisions of RCW 81.60.010 through 81.60.060.

(2) Effective January 1, 2002, as a precondition of any newly appointed railroad police officer to enforce the laws of this state, railroad police must:

(a) Possess the commission's basic certificate, or in the alternative have successfully completed training and possess a basic certification from another state. In the event certification and training are from another state, the newly appointed railroad police officer must satisfactorily complete the equivalency course approved by the commission, within the first six months of employment.

(b) The above requirements do not apply to railroad police officers appointed prior to January 1, 2002; however, they may, if qualified, attend the equivalency academy.

(c) Railroad police officers whose primary duties are those of administration of other railroad police officers may request an administrative exemption from the above training requirements. Administrative exemptions may be granted by the commission provided that the initial grant and continuing

effect of such exemption is governed by the provisions of WAC 139-05-205.

(3) It is the responsibility of the railroad police officer's employing agency to effect and ensure personnel compliance herein, and provide necessary records, proof of background check information upon request of the commission to which the employing agency is accountable for purposes of compliance.

(4) The corporation requesting appointment of a railroad police officer will bear the full cost of training or any other expenses.

[Statutory Authority: RCW 43.101.080. 05-20-029, § 139-05-925, filed 9/28/05, effective 10/29/05; 03-19-122, § 139-05-925, filed 9/17/03, effective 10/18/03; 02-02-004, § 139-05-925, filed 12/20/01, effective 1/20/02. Statutory Authority: RCW 43.101.080(2). 90-07-012, § 139-05-925, filed 3/13/90, effective 4/13/90.]

WAC 139-05-935 Review of staff action. Any person aggrieved by a decision of commission staff under this chapter, or the head of the aggrieved person's agency, may request review by the commission by making a request for an adjudicative proceeding under WAC 139-03-020.

[Statutory Authority: RCW 43.101.080. 05-20-029, § 139-05-935, filed 9/28/05, effective 10/29/05.]

WAC 139-05-940 Exemption, waiver, extension or variance. Any request for exemption, waiver, extension or variance from any requirement of this chapter must be made under WAC 139-03-030.

[Statutory Authority: RCW 43.101.080. 05-20-029, § 139-05-940, filed 9/28/05, effective 10/29/05.]

Chapter 139-10 WAC CORRECTIONS

WAC

139-10-210	Requirement of basic corrections training.
139-10-212	Physical requirements for admission to basic corrections academies.
139-10-235	Basic misdemeanor probation/classification academy curriculum.
139-10-530	Basic community corrections officers academy curriculum.
139-10-540	Basic institutional corrections counselor academy curriculum.
139-10-550	Basic arrest, search, and seizure academy.

WAC 139-10-210 Requirement of basic corrections training. As provided in RCW 43.101.220, all full-time corrections employees of the state of Washington or of any city, county, or political subdivision of the state of Washington must, as a condition of continued employment, successfully complete a basic corrections academy as prescribed, sponsored, or conducted by the commission. This requirement to complete basic training must be fulfilled within the initial six months of corrections employment unless otherwise extended or waived by the commission. Requests for extension or waiver of the basic training requirement must be submitted to the commission in writing as designated by its policies.

(1) Corrections personnel must attend basic academy training according to job function as described below:

(a) Corrections officers academy. All employees whose primary job function is to provide for the custody, safety, and

security of adult prisoners in jails, penal institutions, and detention facilities. Representative job classifications include, but are not limited to, custody and corrections officers.

(b) Misdemeanant probation/classification academy. All employees whose primary job function is the case management of offenders under county/city supervision, to include: Assessment, case planning, counseling, supervision, and monitoring. Representative job classes include, but are not limited to, adult probation officers, jail classification counselors, and work crew supervisors.

(c) Community corrections officers academy and basic arrest, search, and seizure academy. All employees whose primary job function is the case management in the community of adult offenders under state department of corrections supervision, to include: Monitoring adjustment of offenders involved with in/outpatient treatment programs, counseling offenders and/or referring them for counseling or other resource/treatment programs, and making home/field visits pursuant to offender classification standards. Representative job classifications include, but are not limited to, community corrections officers, community risk management specialists, hearings officers, and victim advocates.

(d) Institutional corrections counselors academy. All employees whose primary job function is to provide classification and program services to adult felony offenders housed in a state institutional setting: Parole planning, work/training release and prerelease referrals, academic/vocational/work program reviews, disciplinary and living unit program reviews, and risk management identification. Representative job classes include, but are not limited to, corrections counselors, classification counselors, institution risk management specialists, and corrections mental health counselors.

(e) Juvenile services academy. All employees working with juveniles whose primary job function is the case management of offenders, to include: Assessment, case planning, counseling, supervision, and monitoring. Representative job classes include, but are not limited to, juvenile probation and parole counselors, case aides/assistants, trackers, juvenile rehabilitation community counselors, juvenile drug court counselors, and community surveillance officers.

(f) Juvenile corrections officers academy. All employees responsible for the care, custody, and safety of youth in county and state juvenile custody facilities. Representative job class includes, but are not limited to, juvenile detention workers, juvenile corrections officers, and juvenile supervision officers.

(g) Juvenile residential counselors academy. All employees responsible for the case management, custody, counseling, supervision, and application of researched based treatment to youth in state institutions. Representative job classes include, but are not limited to, juvenile residential rehabilitation counselors, juvenile residential rehabilitation counselor assistants, and juvenile rehabilitation supervisors.

(h) Work release academy. All employees responsible for the safety, custody, and care of adult offenders in a work release facility. Representative job classes include, but are not limited to, work release officers, work release counselors, and work release program monitors.

(2) It is the responsibility of the employing agency to determine the most appropriate basic academy for an

employee to attend within the guidelines set by the commission.

An agency may elect to decline basic academy training if such employee occupies a middle management or an executive position, as defined in WAC 139-10-410, 139-10-510, and 139-25-110.

(3) Failure to comply with the above requirements will result in a notification of noncompliance from the commission directed to the individual employee and, as appropriate, the employing agency director, chief or sheriff, the chief executive of the local unit of government, and any other agency or individual determined by the commission.

(4) Each agency employing personnel covered by RCW 43.101.220 is responsible for full and complete compliance with the above training requirements. Additionally, each such agency must provide the commission with employment information necessary for the establishment and maintenance of complete and accurate training records on all affected employees.

[Statutory Authority: RCW 43.101.080. 05-20-027, § 139-10-210, filed 9/28/05, effective 10/29/05; 04-13-071, § 139-10-210, filed 6/15/04, effective 7/16/04; 00-17-017, § 139-10-210, filed 8/4/00, effective 9/4/00. Statutory Authority: RCW 43.101.220. 95-08-036 and 95-09-070, § 139-10-210, filed 3/30/95 and 4/19/95, effective 4/30/95 and 5/20/95. Statutory Authority: RCW 43.101.080(2). 87-19-105 (Order 15-D), § 139-10-210, filed 9/18/87; 86-19-021 (Order 1-B), § 139-10-210, filed 9/10/86. Formerly WAC 139-36-020.]

WAC 139-10-212 Physical requirements for admission to basic corrections academies. Each successful applicant for admission to a basic corrections officers or juvenile corrections officers academy sponsored or conducted by the commission must possess good health and physical capability to actively and fully participate in defensive tactics training and other required physical activities. In order to minimize risk of injury and maximize the benefit of such participation, each trainee in any academy session must, as a precondition of his or her academy attendance, demonstrate a requisite level of physical fitness, as established by the commission.

For this purpose, each academy applicant must be evaluated in the assessment areas of aerobic capacity, strength, and flexibility, in accordance with the requirements and procedures established by the commission. Such evaluation will be based upon composite performance ratings in the overall assessment as established by the commission.

Failure to demonstrate a requisite level of fitness within the overall assessment will result in ineligibility for academy attendance and completion.

[Statutory Authority: RCW 43.101.080. 05-20-028, § 139-10-212, filed 9/28/05, effective 10/29/05; 00-17-017, § 139-10-212, filed 8/4/00, effective 9/4/00. Statutory Authority: RCW 43.101.080(2). 91-14-010, § 139-10-212, filed 6/24/91, effective 7/25/91; 91-01-044, § 139-10-212, filed 12/12/90, effective 7/1/91.]

WAC 139-10-235 Basic misdemeanor probation/classification academy curriculum. The basic misdemeanor probation/classification academy curriculum of the commission must be at least eighty instructional hours in length and will include, but not be limited to, the following subject matter areas:

- (1) Core skills
- (a) Assessment

- (b) Motivation
- (c) Goal setting/action planning
- (d) Monitoring and intervention
- (2) Key skills
 - (a) Interpersonal skills
 - (b) Interviewing
 - (c) Classification
 - (d) Supervision and discipline
 - (e) Offense prevention
- (3) Related skills
 - (a) Dealing with aggressive and resistive behavior
 - (b) Legal issues
 - (c) Report writing
 - (d) Counseling techniques
 - (e) Managing information.

[Statutory Authority: RCW 43.101.080. 05-13-079, § 139-10-235, filed 6/14/05, effective 7/15/05; 00-17-017, § 139-10-235, filed 8/4/00, effective 9/4/00. Statutory Authority: RCW 43.101.080(2). 87-19-105 (Order 15-D), § 139-10-235, filed 9/18/87; 86-19-021 (Order 1-B), § 139-10-235, filed 9/10/86. Formerly WAC 139-36-032.]

WAC 139-10-530 Basic community corrections officers academy curriculum. The basic community corrections officers academy curriculum of the commission must be at least eighty instructional hours in length and will include, but not be limited to, the following subject matter areas:

- (1) Core skills
 - (a) Assessment
 - (b) Motivation
 - (c) Goal setting/action planning
 - (d) Monitoring and intervention
 - (e) Arrest and search procedures
- (2) Key skills
 - (a) Interpersonal skills
 - (b) Interviewing
 - (c) Classification
 - (d) Offense prevention
- (3) Related skills
 - (a) Dealing with aggressive and resistive behavior
 - (b) Legal issues
 - (c) Counseling techniques
 - (d) Managing information
 - (e) Security management.

[Statutory Authority: RCW 43.101.080. 06-02-004, § 139-10-530, filed 12/22/05, effective 1/22/06; 05-13-078, § 139-10-530, filed 6/14/05, effective 7/15/05.]

WAC 139-10-540 Basic institutional corrections counselor academy curriculum. The basic institutional corrections counselor academy curriculum of the commission must be at least eighty instructional hours in length and will include, but not be limited to, the following subject matter areas:

- (1) Core skills
 - (a) Assessment
 - (b) Motivation
 - (c) Goal setting/action planning
 - (d) Monitoring and intervention
- (2) Key skills
 - (a) Interpersonal skills
 - (b) Interviewing

- (c) Classification
- (d) Supervision and discipline
- (e) Offense prevention
- (3) Related skills
 - (a) Dealing with aggressive and resistive behavior
 - (b) Legal issues
 - (c) Report writing
 - (d) Counseling techniques
 - (e) Managing information.

[Statutory Authority: RCW 43.101.080. 05-13-077, § 139-10-540, filed 6/14/05, effective 7/15/05.]

WAC 139-10-550 Basic arrest, search, and seizure academy. The basic arrest, search, and seizure academy curriculum of the commission will be the second required academy for certification as a community corrections officer. The length must be at least forty instructional hours in length and will include, but not be limited to, the following subject matter areas:

- (1) Core skills
 - (a) Arrest procedures
 - (b) Search procedures
 - (c) Field safety techniques
- (2) Key skills
 - (a) Verbal deescalation
 - (b) Home assessments
- (3) Related skills
 - (a) Dealing with aggressive and resistive behavior
 - (b) Legal issues
 - (c) Evidence procedures
 - (d) Personal safety
 - (e) Security management.

[Statutory Authority: RCW 43.101.080. 05-20-026, § 139-10-550, filed 9/28/05, effective 10/29/05.]

Title 148 WAC

DEAF, WASHINGTON STATE SCHOOL FOR THE

Chapters 148-100

Organization.

Chapter 148-100 WAC ORGANIZATION

WAC

148-100-010

Time and place of board meetings.

WAC 148-100-010 Time and place of board meetings. The board of trustees customarily holds a regular meeting each month pursuant to a schedule established yearly by the board and such special meetings as may be requested by the chair of the board or by a majority of the members of the board and announced in accordance with RCW 42.30.080. A regular meeting may be canceled by action of the board or the board chair.

Meetings of the board shall be at the Washington School for the Deaf, 611 Grand Blvd., Vancouver, Washington 98661, or at such other location as the board may determine.

All regular and special meetings are open to the general public; however, the chair may call an executive session when permitted by law at which members of the general public shall not be present unless invited.

No official business may be conducted by the board of trustees except during a regular or special meeting. No individual member of the board may act on behalf of the board unless specifically instructed by action of the board.

[Statutory Authority: RCW 72.42.031, 05-10-008, § 148-100-010, filed 4/25/05, effective 5/26/05. Statutory Authority: RCW 72.42.041, 02-22-059, § 148-100-010, filed 11/1/02, effective 12/2/02.]

Title 173 WAC

ECOLOGY, DEPARTMENT OF

Chapters

173-175	Dam safety.
173-322	Remedial action grants and loans.
173-350	Solid waste handling standards.
173-400	General regulations for air pollution sources.
173-415	Primary aluminum plants.
173-423	Low emission vehicles.
173-481	Ambient air quality and environmental standards for fluorides.
173-505	Instream resources protection and water resources program.
173-546	Water resources management program—Entiat River basin water resource inventory area (WRIA) 46.

Chapter 173-175 WAC

DAM SAFETY

WAC

173-175-755	Periodic inspection fees.
173-175-765	Periodic inspection fee schedule.

WAC 173-175-755 Periodic inspection fees. The department is required by RCW 90.03.470(8) to collect in advance a fee based on the actual cost, including the expense incident thereto, of the inspection of any dam to insure safety to life and property. Fee amounts contained in this section represent the department's true estimate of the cost of performing periodic dam safety inspections as described in WAC 173-175-705, and reflect the department's commitment to fully recover all eligible expenses.

[Statutory Authority: Chapters 43.21A and 90.03 RCW. 05-18-039 (Order 05-11), § 173-175-755, filed 8/31/05, effective 10/1/05. Statutory Authority: RCW 43.21A.064, 43.21A.080, 86.16.061, 90.03.350 and [90.03].470. 04-16-122 (Order 03-08), § 173-175-755, filed 8/4/04, effective 9/4/04.]

WAC 173-175-765 Periodic inspection fee schedule.

(1) The inspection fee amounts are based on the downstream

hazard classification of the dam, as determined by the department, and incorporate the fiscal growth factor calculated under chapter 43.135 RCW. The inspection fees for each five-year inspection are prorated on an annual basis.

(a) Equation 1 below is used to calculate the annual inspection fees.

$$\text{Annual Inspection Fee} = (\text{COST}_{\text{FGF}}) \div (\text{Cycle}) \quad \text{Equation 1}$$

Where:

(i) Cycle = number of years between inspections, with five years being the minimum.

(ii) FGF = an annual fiscal growth factor expressed as a percentage, as determined under chapter 43.135 RCW.

(iii) COST_{FGF} = cost of inspection in dollars including a fiscal growth factor. The cost is obtained by multiplying the inspection cost in the preceding year by the current year's fiscal growth factor as follows:

$$\text{COST}_{\text{FGF}} = \text{Previous year's cost} \times [1 + (\text{FGF})] \quad \text{Equation 2}$$

(b) For implementation of the fiscal growth factor, the base year for dam inspection fees will be fiscal year 2004, ending June 30, 2004. In the base year, the FGF will be zero.

(c) The cost for an inspection by the department in the base year will be as follows:

(i) \$3440.00 for dams with high downstream hazard classifications, with a prorated annual fee of \$688.00 for a five-year inspection cycle.

(ii) \$2500.00 for dams with significant downstream hazard classifications, with a prorated annual fee of \$500.00 if a five-year inspection cycle is implemented, or \$250.00 if a ten-year inspection cycle is implemented.

(2) Exceptions to periodic inspection fee schedule.

(a) For any hydraulic works less than ten years old, that the department examined and approved the construction plans and specifications as to its safety when required under RCW 90.03.350, there shall be no fee charged; or

(b) For any hydraulic works more than ten years old, but less than twenty years old, that the department examined and approved the construction plans and specifications as to its safety when required under RCW 90.03.350, the fee charged shall equal the fee for a significant hazard dam.

(3) Inspection fee for impoundments with multiple dams. For reservoirs or impoundments with a main dam and one or more saddle dams, a single annual inspection fee will be charged for the facility. The dam with the highest downstream hazard rating will be used for fee computation.

(4) Inspection fee for multicell impoundments. For multicell impoundments, such as wastewater lagoons, where two or more cells are located side-by-side or share a common embankment, a single annual inspection fee will be charged for the facility. The cell with the highest downstream hazard classification will be used for fee computation.

(5) Inspection fee for nonroutine inspections. For nonroutine inspections as described in WAC 173-175-725, no fees will be charged to the dam owner.

(6) Inspection fee for inspections at public request. For inspections done at public request, as described in WAC 173-175-735, no fees will be charged to the dam owner.

[Statutory Authority: Chapters 43.21A and 90.03 RCW. 05-18-039 (Order 05-11), § 173-175-765, filed 8/31/05, effective 10/1/05. Statutory Authority:

RCW 43.21A.064, 43.21A.080, 86.16.061, 90.03.350 and [90.03].470. 04-16-122 (Order 03-08), § 173-175-765, filed 8/4/04, effective 9/4/04.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

Chapter 173-322 WAC

REMEDIAL ACTION GRANTS AND LOANS

WAC

173-322-010	Purpose and authority.
173-322-020	Definitions.
173-322-030	Relation to other legislation and administrative rules.
173-322-040	Administration.
173-322-050	Fiscal controls.
173-322-060	Site hazard assessment grants.
173-322-070	Oversight remedial action grants.
173-322-080	Independent remedial action grants.
173-322-090	Area-wide ground water remedial action grants.
173-322-100	Safe drinking water action grants.
173-322-110	Methamphetamine lab site assessment and cleanup grants.
173-322-120	Derelict vessel remedial action grants.
173-322-130	Loans.

WAC 173-322-010 Purpose and authority. This chapter recognizes that the state contains hundreds of hazardous waste sites which threaten the state's water resources, including those used for public drinking water; that many of our municipal landfills are current or potential hazardous waste sites and present serious threats to human health and the environment; and that the costs of eliminating these threats in many cases are beyond the financial means of local governments and ratepayers.

This chapter establishes requirements for a program of grants and loans to local governments for remedial action pursuant to RCW 70.105D.070 (3)(a) and (7). The intent of the remedial action grants and loans is to encourage and expedite the cleanup of hazardous waste sites and to lessen the impact of the cleanup on ratepayers and taxpayers. The remedial action grants and loans shall be used to supplement local government funding and funding from other sources to carry out remedial actions.

[Statutory Authority: RCW 70.105D.070. 05-07-104 (Order 04-06), § 173-322-010, filed 3/18/05, effective 4/18/05. Statutory Authority: RCW 43.21A.080. 93-24-047, § 173-322-010, filed 11/23/93, effective 12/24/93. Statutory Authority: Chapter 70.105D RCW. 90-10-057 (Order 89-45), § 173-322-010, filed 5/1/90, effective 6/1/90.]

WAC 173-322-020 Definitions. Unless otherwise defined in this chapter, words and phrases used in this chapter shall be defined according to WAC 173-340-200.

"Abandoned or derelict vessels" means vessels that have little or no value and either have no identified owner or have an identified owner lacking financial resources to clean up and dispose of the vessel.

"Area-wide ground water contamination" means multiple adjacent properties with different ownership affected by hazardous substances from multiple sources that have resulted in commingled plumes of contaminated ground water that are not practicable to address separately.

"Cleanup action" means any remedial action, except interim actions, taken at a site to eliminate, render less toxic, stabilize, contain, immobilize, isolate, treat, destroy, or remove a hazardous substance that complies with WAC 173-340-350 through 173-340-390.

"Coordinated water system plan" means a plan for public water systems within a critical water supply service area which identifies the present and future water system concerns and sets forth a means for meeting those concerns in the most efficient manner possible pursuant to chapter 246-293 WAC.

"Decree" or "consent decree" means a consent decree issued under WAC 173-340-520 or the federal cleanup law.

"Department" means the department of ecology.

"Economically disadvantaged county" means a county that meets the following criteria:

- The per capita income of the county, as measured by the latest official estimate of the Washington state office of financial management, is in the lower twenty counties in the state; and

- The county is economically distressed, as defined by chapter 43.165 RCW.

The department will include a list of counties which are economically disadvantaged in the following publication: Washington state department of ecology, *Remedial Action Program Guidelines*, Publication No. 99-505.

"Federal cleanup law" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9601 et seq.

"Grant agreement" means a binding agreement between the local government and the department that authorizes the disbursement of funds to the local government to reimburse it for a portion of expenditures in support of a specified scope of services.

"Hazard ranking" means the ranking for hazardous waste sites used by the department pursuant to RCW 70.105D.030 (2)(b) and WAC 173-340-330.

"Hazardous substances" means any hazardous substance as defined in WAC 173-340-200.

"Hazardous waste site" means any facility where there has been confirmation of a release or threatened release of a hazardous substance that requires remedial action.

"Independent remedial actions" means remedial actions conducted without department oversight or approval and not under an order or consent decree.

"Initial containment of methamphetamine lab sites" means the first location where hazardous substances are confined by a container, vessel, barrier, or structure, whether natural or constructed, with a defined boundary, and that prevents or minimizes its release into the environment.

"Innovative technology" means new technologies that have been demonstrated to be technically feasible under certain site conditions, but have not been widely used under different site conditions. Innovative technology also means the innovative use of existing technologies that have been established for use under certain site conditions, but not the conditions that exist at the hazardous waste site for which a remedial action grant is sought. Innovative technology has limited performance and cost data available.

"Interim action" means a remedial action conducted under WAC 173-340-430.

"Loan agreement" means a binding agreement between the local government and the department that authorizes the disbursement of funds to the local government that must be repaid. The loan agreement includes terms such as interest

rates and repayment schedule, scope of work, performance schedule, and project budget.

"Local government" means any political subdivision, regional governmental unit, district, municipal or public corporation, including cities, towns, and counties. The term encompasses but does not refer specifically to the departments within a city, town, or county.

"Methamphetamine lab site assessment" means the actions taken by a local health department or district under WAC 246-205-520 through 246-205-560, including posting the property, inspecting the property, determining whether the property is contaminated, posting contaminated property, and notifying occupants, property owners, and other persons with an interest in the contaminated property.

"Model Toxics Control Act" or "act" means chapter 70.105D RCW, first passed by the voters in the November 1988 general election as Initiative 97 and as since amended by the legislature.

"National Priorities List" or "NPL" means a list of hazardous waste sites at which the U.S. Environmental Protection Agency intends to proceed with enforcement or cleanup action.

"No further action (NFA) determination" means a written opinion issued by the department under WAC 173-340-515 (5)(b) that the independent remedial actions performed at a hazardous waste site meet the substantive requirements of chapter 173-340 WAC and that no further remedial action is required at the hazardous waste site. The opinion is advisory only and not binding on the department.

"Order" means an order issued under chapter 70.105D RCW, including enforcement orders issued under WAC 173-340-540 and agreed orders issued under WAC 173-340-530, or an order issued under the federal cleanup law, including unilateral administrative orders (UAO) and administrative orders on consent (AOC).

"Oversight costs" are remedial action costs of the department or the U.S. Environmental Protection Agency reasonably attributable to the administration of an order or decree for remedial action at a hazardous waste site.

"Oversight remedial actions" means remedial actions conducted under an order or decree.

"Partial funding" means funding less than the maximum percentage of eligible costs allowed under this chapter.

"Pilot study" means an experiment in remedial action method, with the purpose of testing the suitability of a particular cleanup technology or process for remedial action at a particular site.

"Potentially liable person" or "PLP" means any person whom the department finds, based on credible evidence, to be liable under RCW 70.105D.040.

"Potentially responsible party" or "PRP" means "covered persons" as defined under section 9607 (a)(1) through (4) of the federal cleanup law (42 U.S.C. Sec. 9607(a)).

"Public water system" means any system, excluding a system serving only one single-family residence and a system with four or fewer connections all of which serve residences on the same farm, providing piped water for human consumption, including any collection, treatment, storage, or distribution facilities under control of the purveyor and used primarily in connection with the system and collection or pre-

treatment storage facilities not under control of the purveyor but primarily used in connection with such system.

"Purveyor" means an agency or subdivision of the state or a municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or any other entity that owns or operates a public water system, or the authorized agent of such entities.

"Recycling" means a remedial action which permanently removes hazardous substances from the site and successfully directs the material into a new product suitable for further industrial or consumer use.

"Remedial action" means any action or expenditure consistent with the purposes of chapter 70.105D RCW to identify, eliminate, or minimize any threat posed by hazardous substances to human health or the environment including any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

"Remedial design (RD)" means an engineering study during which technical plans and specifications are developed to guide subsequent cleanup action at a hazardous waste site.

"Remedial investigation/feasibility study" or "RI/FS" means a remedial action that consists of activities conducted under WAC 173-340-350 intended to collect, develop, and evaluate sufficient information regarding a site to enable the selection of a cleanup action under WAC 173-340-360 through 173-340-390.

"Retroactive costs" means costs incurred before the date of the grant agreement.

"Safe drinking water" means water meeting drinking water quality standards set by chapter 246-290 WAC.

"Safe drinking water action" means an action by a local government purveyor or other purveyor to provide safe drinking water through public water systems to areas contaminated by or threatened by contamination from hazardous waste sites.

"Site" means any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, vessel, or aircraft; or any site or area where a hazardous substance, other than a legal consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located.

"Site hazard assessment" means a remedial action that consists of an investigation performed under WAC 173-340-320.

"Treatment" means a remedial action which permanently destroys, detoxifies, or recycles hazardous substances.

[Statutory Authority: RCW 70.105D.070. 05-07-104 (Order 04-06), § 173-322-020, filed 3/18/05, effective 4/18/05. Statutory Authority: Chapter 70.105D RCW. 01-05-024 (Order 97-09A), § 173-322-020, filed 2/12/01, effective 3/15/01. Statutory Authority: RCW 43.21A.080. 93-24-047, § 173-322-020, filed 11/23/93, effective 12/24/93. Statutory Authority: Chapter 70.105D RCW. 90-10-057 (Order 89-45), § 173-322-020, filed 5/1/90, effective 6/1/90.]

WAC 173-322-030 Relation to other legislation and administrative rules. (1) Nothing in this chapter shall influence, affect, or modify department programs, regulations, or

enforcement of applicable laws relating to hazardous waste investigation and cleanup.

(2) Nothing in this chapter shall modify the order or decree the department has secured with potentially liable persons for remedial action. The execution of remedies pursuant to the order or decree shall in no way be contingent upon the availability of grant funding.

(3) All grants and loans shall be subject to existing accounting and auditing requirements of state laws and regulations applicable to the issuance of grants and loans.

[Statutory Authority: RCW 70.105D.070. 05-07-104 (Order 04-06), § 173-322-030, filed 3/18/05, effective 4/18/05. Statutory Authority: Chapter 70.105D RCW. 01-05-024 (Order 97-09A), § 173-322-030, filed 2/12/01, effective 3/15/01. Statutory Authority: RCW 43.21A.080. 93-24-047, § 173-322-030, filed 11/23/93, effective 12/24/93. Statutory Authority: Chapter 70.105D RCW. 90-10-057 (Order 89-45), § 173-322-030, filed 5/1/90, effective 6/1/90.]

WAC 173-322-040 Administration. (1) **Notice of availability.** Local governments will be periodically informed of the availability of remedial action grant and loan funding.

(2) **Application package.** An application package will be sent to all parties expressing interest in remedial action grants or loans and to all local governments that have been required by decree or order to perform remedial actions. Application packages will include guidelines and application forms.

(3) **Application guidance.** The department will prepare a guidance manual on a biennial basis to assist grant and loan applicants and to facilitate compliance with this regulation.

(4) **Application period.** The application for a remedial action grant or loan must be submitted to the department within the period specified in this chapter for the particular type of grant or loan.

(5) **Application form.** The application for a remedial action grant or loan must be completed on forms provided by the department.

(6) **Appropriation of funds.** Grants and loans will be awarded within the limits of available funds. The obligation of the department to make grant payments or provide loans is contingent upon the availability of funds through legislative appropriation and allotment, and such other conditions not reasonably foreseeable by the department rendering performance impossible. When the grant or loan crosses over bienniums, the obligation of the department is contingent upon the legislative appropriation of funds for the next biennium.

(7) **Allocation of funds.** In conjunction with the biennial program report and program plan required by WAC 173-340-340, the department will prepare an administrative allocation from the legislative appropriation of the local toxics control account for funding remedial action grants and loans. Within that administrative allocation, the department will allocate subamounts for each type of remedial action grant or loan. The allocations shall be based on estimated costs for work on eligible sites which are identified in the program plan for the biennium.

(8) **Funding.** Remedial action grants and loans shall be used to supplement local government funding and funding from other sources to carry out required remedial action.

(9) **Department discretion.** The department may fund all or portions of eligible grant or loan applications.

(10) **Indemnification.** To the extent that the Constitution and laws of the state of Washington permit, the grantee or loan recipient shall indemnify and hold the department harmless, from and against, any liability for any or all injuries to persons or property arising from the negligent act or omission of the grantee or loan recipient arising out of a grant or loan contract.

(11) **Administrative requirements.** All grants and loans administered by the department under this chapter shall comply with the requirements set forth in the following publication: Washington state department of ecology, "*Administrative Requirements for Ecology Grants and Loans*," Publication No. 91-18.

[Statutory Authority: RCW 70.105D.070. 05-07-104 (Order 04-06), § 173-322-040, filed 3/18/05, effective 4/18/05. Statutory Authority: Chapter 70.105D RCW. 01-05-024 (Order 97-09A), § 173-322-040, filed 2/12/01, effective 3/15/01. Statutory Authority: RCW 43.21A.080. 93-24-047, § 173-322-040, filed 11/23/93, effective 12/24/93. Statutory Authority: Chapter 70.105D RCW. 90-10-057 (Order 89-45), § 173-322-040, filed 5/1/90, effective 6/1/90.]

WAC 173-322-050 Fiscal controls. (1) **General.** The department will establish reasonable costs for all grants and loans, require local governments to manage projects in a cost-effective manner, and ensure that all potentially liable persons assume responsibility for remedial action.

(2) **Partial funding.** The department retains the authority to issue grants or loans which reimburse the local government for less than the maximum percentage allowable under WAC 173-322-060 through 173-322-130.

(3) **Limit on funding for a hazardous waste site.**

(a) For hazardous waste sites where oversight remedial actions are being conducted, the department and the local government will establish a final cleanup budget and negotiate grant and loan agreements after the remedial investigation and feasibility study have been completed and a final remedial action plan has been developed by the local government. The funding provided under these agreements will be the final department remedial action fund commitment for cleanup at that hazardous waste site. Grant and loan agreements may be amended, but requests to increase the remedial action budget at that site will receive a lower priority than other applications.

(b) For hazardous waste sites where independent remedial actions have been conducted, the remedial action costs eligible for grant funding at a hazardous waste site shall not exceed four hundred thousand dollars.

(4) **Retroactive funding.** Retroactive costs are not eligible for funding, except as provided under this chapter for each type of grant or loan.

(5) **Consideration of contribution claims.** The local government may not use proceeds from contribution claims to meet the match requirement for the grant. If the local government receives proceeds from a contribution claim before the effective date of the grant agreement, then the department shall deduct those proceeds from the amount eligible for grant funding, after subtracting from those proceeds the legal costs incurred by the local government pursuing the contribution claim. If the local government receives proceeds from a contribution claim after the effective date of the grant agreement, then the local government shall reimburse the department for a proportional share of those proceeds, after sub-

tracting from those proceeds the legal costs incurred by the local government pursuing the contribution claim.

(6) **Consideration of insurance claims.** The local government may use proceeds from insurance claims to meet the match requirement for the grant. If those proceeds exceed the match requirement for the grant, then the department may reduce grant funding or require a reimbursement of grant funding by up to the amount that those proceeds exceed the match requirement, after subtracting from that amount the legal costs incurred by the local government pursuing the insurance claims.

(7) **Repayment of area-wide ground water remedial action grant funds.** If the department provides the local government with an area-wide ground water remedial action grant for conducting remedial action on property owned by private parties, then the grant amount shall be partially repaid to the department. The terms and amount of repayment shall be included in the grant agreement between the local government and the department.

(8) **Financial reporting.**

(a) **Grant application.** The local government shall specify in the grant application any proceeds it has received from contribution claims. The local government shall also specify in the grant application any current or potential sources of local funding to meet the match requirement for the grant including, but not limited to, other grants or loans and proceeds from insurance claims.

(b) **Grant agreement.** If the department provides the local government with a remedial action grant or loan, then the local government shall:

(i) Submit a copy of the local government's "Comprehensive Annual Financial Report" following its publication, for the year in which the grant is issued and for each year the grant is in effect; and

(ii) Notify the department of any proceeds the local government receives from a contribution or insurance claim within ninety days of receipt of those proceeds.

(9) **Financial responsibility.** As established by the Model Toxics Control Act, chapter 70.105D RCW, and implementing regulations, the potentially liable persons (PLPs) bear financial responsibility for remedial action costs. The remedial action grant and loan programs may not be used to circumvent the responsibility of a PLP.

[Statutory Authority: RCW 70.105D.070. 05-07-104 (Order 04-06), § 173-322-050, filed 3/18/05, effective 4/18/05. Statutory Authority: Chapter 70.105D RCW. 01-05-024 (Order 97-09A), § 173-322-050, filed 2/12/01, effective 3/15/01. Statutory Authority: RCW 43.21A.080. 93-24-047, § 173-322-050, filed 11/23/93, effective 12/24/93. Statutory Authority: Chapter 70.105D RCW. 90-10-057 (Order 89-45), § 173-322-050, filed 5/1/90, effective 6/1/90.]

WAC 173-322-060 Site hazard assessment grants. (1)

Purpose. The purpose of the site hazard assessment grant program is to involve local health districts and departments in assessing the degree of contamination at suspected hazardous waste sites according to WAC 173-340-320. While enabling local health districts or departments to participate in the scoring and ranking process, the department retains the authority to review and verify the results of a site hazard assessment and to establish the hazard ranking of the site.

(2) **Applicant eligibility.** To be eligible for a site hazard assessment grant, the applicant must meet the following requirements:

(a) The applicant must be a local health district or department;

(b) The site must be located within the jurisdiction of the applicant;

(c) The department has agreed that the applicant may conduct the site hazard assessment; and

(d) The scope of work for the site hazard assessment must conform to WAC 173-340-320 and applicable department guidelines.

(3) **Application process.**

(a) **Submittal.** The application for a site hazard assessment grant may be submitted to the department at any time.

(b) **Content.** The grant application must be completed on forms provided by the department and include the following:

(i) Sufficient evidence to demonstrate compliance with the applicant eligibility requirements in subsection (2) of this section;

(ii) A description of the environmental benefits of the project;

(iii) A copy of the scope of work which conforms to the requirements of WAC 173-340-320 and applicable department guidelines;

(iv) A budget for the scope of work; and

(v) A description of all current or potential sources of funding, including other grants or loans.

(4) **Application evaluation and prioritization.**

(a) The grant application will be evaluated by the department for completeness and adequacy. After the application has been completed, the department and the applicant will negotiate the scope of work and budget for the grant. The department will consider cost eligibility and other sources of funding when negotiating the scope of work and budget for the grant.

(b) When pending grant applications or anticipated demand for site hazard assessment grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the following:

(i) Potential public health or environmental threat from the sites;

(ii) Ownership of the sites. Publicly owned sites will receive priority over privately owned sites; and

(iii) Relative readiness of the applicant to proceed promptly to accomplish the scope of work.

(5) **Cost eligibility.** Costs must be eligible under this section and must be approved by the department in order to be eligible for reimbursement. Eligible costs include costs for activities performed pursuant to WAC 173-340-320 and enabling local health districts or departments to participate in the department's site ranking and priority-setting process.

(6) **Retroactive cost eligibility.** Retroactive costs are not eligible for reimbursement unless:

(a) The department unreasonably delays the processing of the grant application; or

(b) The department provided only partial funding under a prior grant agreement because funds were not available.

(7) **Funding.** The applicant shall be eligible to receive funding for up to one hundred percent of eligible costs.

[Statutory Authority: RCW 70.105D.070. 05-07-104 (Order 04-06), § 173-322-060, filed 3/18/05, effective 4/18/05. Statutory Authority: Chapter 70.105D RCW. 01-05-024 (Order 97-09A), § 173-322-060, filed 2/12/01, effective 3/15/01. Statutory Authority: RCW 43.21A.080. 93-24-047, § 173-322-060, filed 11/23/93, effective 12/24/93. Statutory Authority: Chapter 70.105D RCW. 90-10-057 (Order 89-45), § 173-322-060, filed 5/1/90, effective 6/1/90.]

WAC 173-322-070 Oversight remedial action grants.

(1) **Purpose.** The purpose of the oversight remedial action grant program is to provide funding to local governments that conduct remedial actions under an order or decree. The grants are intended to encourage and expedite remedial action and to lessen the impact of the cost of such action on ratepayers and taxpayers.

(2) **Applicant eligibility.** Except as provided under subsection (3) of this section, to be eligible for an oversight remedial action grant, the applicant must meet the following requirements:

(a) The applicant must be a local government, as defined in WAC 173-322-020;

(b) The applicant must be a potentially liable person or a potentially responsible party at the hazardous waste site; and

(c) The applicant must meet one of the following criteria:

(i) The applicant is required by the department to conduct remedial action under an order or decree issued under chapter 70.105D RCW;

(ii) The applicant is required by the U.S. Environmental Protection Agency to conduct remedial action under an order or decree issued under the federal cleanup law and the order or decree has been signed or acknowledged in writing by the department as a sufficient basis for remedial action grant funding; or

(iii) The applicant has signed an order or decree issued under chapter 70.105D RCW requiring a potentially liable person (PLP) other than the applicant to conduct remedial action at a landfill site and the applicant has entered into an agreement with the PLP to reimburse the PLP for a portion of the remedial action costs incurred under the order or decree for the sole purpose of providing relief to ratepayers and/or taxpayers from remedial action costs.

(3) **Retroactive applicant eligibility.** To be eligible to receive an oversight remedial action grant for an order issued under the federal cleanup law before the effective date of the 2005 amendments to this chapter, the applicant must meet the following requirements:

(a) The applicant must be a local government, as defined in WAC 173-322-020;

(b) The applicant was required by the U.S. Environmental Protection Agency to conduct remedial action under an order issued under the federal cleanup law;

(c) The order has been signed or acknowledged in writing by the department as a sufficient basis for remedial action grant funding; and

(d) The applicant must submit to the department a grant application within six months after the effective date of the 2005 amendments to this chapter.

(4) Application process.

(a) **Submittal.** Except as provided under subsection (3) of this section, the application for an oversight remedial action grant must be submitted to the department within sixty days of the effective date of the order or decree.

(b) **Content.** The grant application must be completed on forms provided by the department and include the following:

(i) Sufficient evidence to demonstrate compliance with the eligibility requirements in subsection (2) of this section;

(ii) A description of the history of the site, the current status of the site, and the remedial actions to be performed at the site under the order or decree;

(iii) A description of the environmental benefits of the project;

(iv) A copy of the order or decree;

(v) A copy of the scope of work which accomplishes the requirements of the order or decree;

(vi) A budget for the scope of work;

(vii) A description of all current or potential sources of funding including, but not limited to, other grants or loans and proceeds from contribution or insurance claims;

(viii) A commitment by the applicant to provide the required matching funds and a description of the sources of those funds; and

(ix) If the applicant claims the use of innovative technology under subsection (7)(c)(i) of this section, a justification for the claim.

(5) Application evaluation and prioritization.

(a) The grant application will be evaluated by the department for completeness and adequacy. After the application has been completed, the department and the applicant will negotiate the scope of work and budget for the grant. The department will consider cost eligibility and other sources of funding when negotiating the scope of work and budget for the grant.

(b) When pending grant applications or anticipated demand for oversight remedial action grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the following:

(i) Relative hazard ranking as determined by the department in accordance with WAC 173-340-330 or the U.S. Environmental Protection Agency's National Priorities List ranking. Higher ranking sites will receive a higher funding priority;

(ii) Evidence that the grant will expedite cleanup;

(iii) Relative readiness of the applicant to proceed promptly to accomplish the scope of work.

(6) **Cost eligibility.** Costs must be eligible under this section and be approved by the department in order to be eligible for reimbursement.

(a) **Eligible costs.** Eligible costs for oversight remedial action grants include, but are not limited to, the reasonable costs for the following:

(i) Remedial investigations;

(ii) Feasibility studies;

(iii) Remedial designs;

(iv) Pilot studies;

(v) Interim actions;

(vi) Cleanup actions;

(vii) Landfill closures required under chapters 173-304, 173-350 and 173-351 WAC, if also required as a remedial action under the order or decree;

(viii) Capital costs of long-term monitoring systems; and

(ix) Operating and maintenance costs incurred during the first year of accomplishing the cleanup action after facilities and equipment have been installed or constructed.

(b) **Ineligible costs.** Ineligible costs for oversight remedial action grants include, but are not limited to, the following:

(i) Retroactive costs, except as provided under subsection (7) of this section;

(ii) Oversight costs;

(iii) Operating and maintenance costs of long-term monitoring systems;

(iv) Operating and maintenance costs incurred after the first year of accomplishing the cleanup action;

(v) Natural resource damage assessment costs and natural resource damages;

(vi) Legal costs including, but not limited to, the cost of pursuing contribution or insurance claims, the cost of administrative hearings, the cost of pursuing penalties or civil or criminal actions against persons, the cost of penalties incurred by the applicant, the cost of defending actions taken against the applicant, and attorney fees; and

(vii) In-kind services.

(7) **Retroactive cost eligibility.** Retroactive costs are not eligible for reimbursement unless:

(a) The department unreasonably delays the processing of the grant application;

(b) The department provided only partial funding under a prior grant agreement because funds were not available;

(c) The costs were incurred conducting independent remedial actions and those actions are incorporated as part of the order or decree; or

(d) The applicant is eligible under subsection (3) of this section.

(8) **Funding and reimbursement.**

(a) **Adjustment of eligible costs.** If an order or decree requires a potentially liable person (PLP) or a potentially responsible party (PRP) other than a local government to conduct remedial action, then the department shall deduct the financial contribution of that PLP or PRP from the amount eligible for grant funding. If the applicant receives proceeds from a contribution claim before the effective date of the grant agreement, then the department shall deduct those proceeds from the amount eligible for grant funding, after subtracting from those proceeds the legal costs incurred by the applicant pursuing the contribution claim.

(b) **Funding of eligible costs.** Except as provided under (c) of this subsection, the applicant shall be eligible to receive funding for up to fifty percent of eligible costs.

(c) **Additional funding.** The applicant shall be eligible to receive funding in excess of the limit set forth in (b) of this subsection under the following circumstances:

(i) **The applicant used innovative technology.** If the applicant utilizes innovative technology, as defined in WAC 173-322-020, as part of the cleanup action and the eligible costs exceed four hundred thousand dollars, then the applicant shall be eligible to receive additional funding up to fifteen percent of eligible costs. The applicant must include justification for the innovative technology claim in the grant application.

(ii) **The county is economically disadvantaged.** If the applicant is a county, or is located within a county, that is

economically disadvantaged, as defined in WAC 173-322-020, then the applicant shall be eligible to receive additional funding up to twenty-five percent of eligible costs.

(d) **Match requirement.** The applicant shall fund those eligible costs not funded by the department under the grant. The applicant may not use in-kind services or proceeds from contribution claims to meet the match requirement.

(e) **Reimbursement of grant funds.** If the applicant receives proceeds from a contribution claim after the effective date of the grant agreement, then the applicant shall reimburse the department for a proportional share of those proceeds, after subtracting from those proceeds the legal costs incurred by the applicant pursuing the contribution claim.

[Statutory Authority: RCW 70.105D.070. 05-07-104 (Order 04-06), § 173-322-070, filed 3/18/05, effective 4/18/05. Statutory Authority: Chapter 70.105D RCW. 01-05-024 (Order 97-09A), § 173-322-070, filed 2/12/01, effective 3/15/01. Statutory Authority: RCW 43.21A.080. 93-24-047, § 173-322-070, filed 11/23/93, effective 12/24/93. Statutory Authority: Chapter 70.105D RCW. 90-10-057 (Order 89-45), § 173-322-070, filed 5/1/90, effective 6/1/90.]

WAC 173-322-080 Independent remedial action grants.

(1) **Purpose.** The purpose of the independent remedial action grant program is to provide funding to local governments that have successfully cleaned up hazardous waste sites through independent remedial action. Independent remedial actions are remedial actions that are voluntarily initiated and conducted without department oversight or approval. The grants are intended to encourage and expedite independent remedial action and to lessen the impact of the cost of such action on ratepayers and taxpayers.

(2) **Applicant eligibility.** To be eligible for an independent remedial action grant, the applicant must meet the following requirements:

(a) The applicant must be a local government, as defined in WAC 173-322-020;

(b) The applicant must be a potentially liable person or potentially responsible party at the hazardous waste site or have an ownership interest in the hazardous waste site; and

(c) The applicant must have completed independent remedial actions at the hazardous waste site and received from the department a no further action (NFA) determination.

(3) **Application process.**

(a) **Submittal.** The application for an independent remedial action grant must be submitted to the department within sixty days of receipt of the no further action (NFA) determination.

(b) **Content.** The grant application must be completed on forms provided by the department and include the following:

(i) Sufficient evidence to demonstrate compliance with the eligibility requirements in subsection (2) of this section;

(ii) A description of the independent remedial action for which the department issued a no further action (NFA) determination;

(iii) A description of the environmental benefits of the project;

(iv) A copy of the independent remedial action report required under WAC 173-340-515(4);

(v) A copy of the document containing the no further action (NFA) determination;

(vi) A description of the costs incurred in performing the independent remedial actions;

(vii) A description of all current or potential sources of funding including, but not limited to, other grants or loans and proceeds from contribution or insurance claims; and

(viii) A commitment by the applicant to provide the required matching funds and a description of the sources of those funds.

(4) Application evaluation and prioritization.

(a) The grant application will be evaluated by the department for completeness and adequacy. After the application has been completed, the department and the applicant will negotiate the budget for the grant. The department will consider cost eligibility and other sources of funding when negotiating the budget for the grant.

(b) When pending grant applications or anticipated demand for independent remedial action grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the date the department receives completed applications.

(5) Cost eligibility. Costs must be eligible under this section and be approved by the department in order to be eligible for reimbursement.

(a) **Eligible costs.** Eligible costs for independent remedial action grants include, but are not limited to, the reasonable costs for the following:

(i) Remedial investigations;

(ii) Feasibility studies;

(iii) Remedial designs;

(iv) Pilot studies;

(v) Interim actions;

(vi) Cleanup actions;

(vii) Capital costs of long-term monitoring systems;

(viii) Operating and maintenance costs incurred during the first year of accomplishing the cleanup action after facilities and equipment have been installed or constructed; and

(ix) Development of the independent remedial action report required under WAC 173-340-515(4).

(b) **Ineligible costs.** Ineligible costs for independent remedial action grants include, but are not limited to, the following:

(i) Retroactive costs, except as provided under subsection (6) of this section;

(ii) Cost of technical consultations provided by the department under WAC 173-340-515(5), including any deposit for such consultations;

(iii) Operating and maintenance costs of long-term monitoring systems;

(iv) Operating and maintenance costs incurred after the first year of accomplishing the cleanup action;

(v) Natural resource damage assessment costs and natural resource damages;

(vi) Legal costs including, but not limited to, the cost of pursuing contribution or insurance claims, the cost of administrative hearings, the cost of pursuing penalties or civil or criminal actions against persons, the cost of penalties incurred by the applicant, the cost of defending actions taken against the applicant, and attorney fees; and

(vii) In-kind services.

(6) Retroactive cost eligibility. Retroactive costs are eligible for reimbursement if the costs were incurred within

five years of the date of the grant application. Retroactive costs incurred more than five years before the date of the grant application are not eligible for reimbursement unless:

(a) The department unreasonably delayed the processing of the grant application; or

(b) The department provided only partial funding under a prior grant agreement because funds were not available.

(7) Funding and reimbursement.

(a) **Adjustment of eligible costs.** If the applicant receives proceeds from a contribution claim before the effective date of the grant agreement, then the department shall deduct those proceeds from the amount eligible for grant funding, after subtracting from those proceeds the legal costs incurred by the applicant pursuing the contribution claim. If the eligible costs exceed four hundred thousand dollars after the department has deducted any contribution claim proceeds, then the department shall limit the eligible costs to four hundred thousand dollars.

(b) **Funding of eligible costs.** Except as provided under (c) of this subsection, the applicant shall be eligible to receive funding for up to fifty percent of eligible costs.

(c) **Additional funding.** If the applicant is a county, or is located within a county, that is economically disadvantaged, as defined in WAC 173-322-020, then the applicant shall be eligible to receive funding for up to seventy-five percent of eligible costs.

(d) **Match requirement.** The applicant shall fund those eligible costs not funded by the department under the grant. The applicant may not use in-kind services or proceeds from contribution claims to meet the match requirement.

(e) **Reimbursement of grant funds.** If the applicant receives proceeds from a contribution claim after the effective date of the grant agreement, then the applicant shall reimburse the department for a proportional share of those proceeds, after subtracting from those proceeds the legal costs incurred by the applicant pursuing the contribution claim.

[Statutory Authority: RCW 70.105D.070. 05-07-104 (Order 04-06), § 173-322-080, filed 3/18/05, effective 4/18/05. Statutory Authority: RCW 43.21A.080. 93-24-047, § 173-322-080, filed 11/23/93, effective 12/24/93. Statutory Authority: Chapter 70.105D RCW. 90-10-057 (Order 89-45), § 173-322-080, filed 5/1/90, effective 6/1/90.]

WAC 173-322-090 Area-wide ground water remedial action grants. (1) Purpose. The purpose of the area-wide ground water remedial action grant program is to provide funding to local governments that facilitate the cleanup and redevelopment of property within their jurisdictions where the ground water has been contaminated by hazardous substances from multiple sources. The grants are intended to encourage and expedite the investigation and cleanup of area-wide ground water contamination.

(2) Applicant eligibility. To be eligible for an area-wide ground water remedial action grant, the applicant must meet the following requirements:

(a) The applicant must be a local government, as defined in WAC 173-322-020;

(b) The hazardous waste site must involve area-wide ground water contamination, as defined in WAC 173-322-020;

(c) The applicant must be a potentially liable person or a potentially responsible party at the hazardous waste site, have an ownership interest in the hazardous waste site, or apply on behalf of property owners affected by the hazardous waste site to facilitate area-wide ground water action;

(d) The area-wide ground water action must be required under an order or decree or be approved by the department. If the action is required under an order or decree issued under the federal cleanup law, then the order or decree must have been signed or acknowledged in writing by the department as a sufficient basis for remedial action grant funding; and

(e) The applicant must agree to conduct or manage the area-wide ground water action specified in the grant agreement.

(3) Application process.

(a) **Submittal.** If the area-wide ground water remedial actions are required under an order or decree, then the grant application must be submitted to the department within sixty days of the effective date of the order or decree. If the area-wide ground water remedial actions are not required under an order or decree, then the grant application may be submitted to the department at any time.

(b) **Content.** The grant application must be completed on forms provided by the department and include the following:

- (i) Sufficient evidence to demonstrate compliance with the eligibility requirements in subsection (2) of this section;
- (ii) A description of the history of the site, the sources of the area-wide ground water contamination, the current status of the site, and the remedial actions to be performed at the site to address the area-wide ground water contamination;
- (iii) A description of the environmental benefits of the project;
- (iv) A copy of the order or decree, if applicable;
- (v) A copy of the scope of work that specifies the remedial actions to be performed at the site to address the area-wide ground water contamination;
- (vi) A budget for the scope of work;
- (vii) A description of all current or potential sources of funding including, but not limited to, other grants or loans and proceeds from contribution or insurance claims;
- (viii) A copy of any reimbursement agreement with affected property owners;
- (ix) A commitment by the applicant to partially reimburse the department from any current or future funds obtained from affected property owners; and
- (x) A commitment by the applicant to provide the required matching funds and a description of the sources of those funds.

(4) Application evaluation and prioritization.

(a) The grant application will be evaluated by the department for completeness and adequacy. After the application has been completed, the department and the applicant will negotiate the scope of work and budget for the grant. The department will consider cost eligibility and other sources of funding when negotiating the scope of work and budget for the grant.

(b) When pending grant applications or anticipated demand for area-wide ground water remedial action grants exceed the amount of funds available, the department may

prioritize applications or limit grant awards based on the following:

(i) Relative hazard ranking as determined by the department in accordance with WAC 173-340-330 or the U.S. Environmental Protection Agency's National Priorities List ranking. Higher ranking sites will receive a higher funding priority;

(ii) Evidence that the grant will expedite cleanup; and

(iii) Relative readiness of the applicant to proceed promptly to accomplish the scope of work.

(5) **Cost eligibility.** Costs must be eligible under this section and be approved by the department in order to be eligible for reimbursement.

(a) **Eligible costs.** Eligible costs for area-wide ground water remedial action grants include, but are not limited to, the reasonable costs for the following:

- (i) Remedial investigations;
- (ii) Feasibility studies;
- (iii) Remedial designs;
- (iv) Pilot studies;
- (v) Interim actions;
- (vi) Cleanup actions;
- (vii) Capital costs of long-term monitoring systems; and
- (viii) Operating and maintenance costs incurred during the first year of accomplishing the cleanup action after facilities and equipment have been installed or constructed.

(b) **Ineligible costs.** Ineligible costs for area-wide ground water remedial action grants include, but are not limited to, the following:

- (i) Retroactive costs, except as provided under subsection (6) of this section;
- (ii) Oversight costs;
- (iii) Operating and maintenance costs of long-term monitoring systems;
- (iv) Operating and maintenance costs incurred after the first year of accomplishing the cleanup action;
- (v) Natural resource damage assessment costs and natural resource damages;
- (vi) Legal costs including, but not limited to, the cost of pursuing contribution or insurance claims, the cost of administrative hearings, the cost of pursuing penalties or civil or criminal actions against persons, the cost of penalties incurred by the applicant, the cost of defending actions taken against the applicant, and attorney fees; and
- (vii) In-kind services.

(6) **Retroactive cost eligibility.** Retroactive costs are not eligible for reimbursement unless:

- (a) The department unreasonably delays the processing of the grant application;
- (b) The department provided only partial funding under a prior grant agreement because funds were not available; or
- (c) The costs were incurred conducting independent remedial actions and those actions are incorporated as part of the order or decree.

(7) Funding and reimbursement.

(a) **Adjustment of eligible costs.** If an order or decree requires a potentially liable person (PLP) or a potentially responsible party (PRP) other than a local government to conduct remedial action, then the department shall deduct the financial contribution of that PLP or PRP from the amount eligible for grant funding. If the applicant receives proceeds

from a contribution claim before the effective date of the grant agreement, then the department shall deduct those proceeds from the amount eligible for grant funding, after subtracting from those proceeds the legal costs incurred by the applicant pursuing the contribution claim.

(b) **Funding of eligible costs.** The applicant shall be eligible to receive funding for up to one hundred percent of eligible costs.

(c) **Match requirement.** The applicant shall fund those eligible costs not funded by the department under the grant. The applicant may not use in-kind services or proceeds from contribution claims to meet the match requirement.

(d) **Reimbursement of grant funds.** If the applicant receives proceeds from a contribution claim after the effective date of the grant agreement, then the applicant shall reimburse the department for a proportional share of those proceeds, after subtracting from those proceeds the legal costs incurred by the applicant pursuing the contribution claim.

(e) **Repayment of grant funds.** If the property impacted by the area-wide ground water contamination is owned by private parties, then the grant amount shall be partially repaid to the department. The terms and amount of repayment shall be included in the grant agreement between the applicant and the department. The applicant shall obtain partial reimbursement from potentially liable persons and potentially responsible parties. Reasonable measures shall be taken by the applicant to maximize reimbursement.

[Statutory Authority: RCW 70.105D.070. 05-07-104 (Order 04-06), § 173-322-090, filed 3/18/05, effective 4/18/05. Statutory Authority: Chapter 70.105D RCW. 01-05-024 (Order 97-09A), § 173-322-090, filed 2/12/01, effective 3/15/01. Statutory Authority: RCW 43.21A.080. 93-24-047, § 173-322-090, filed 11/23/93, effective 12/24/93. Statutory Authority: Chapter 70.105D RCW. 90-10-057 (Order 89-45), § 173-322-090, filed 5/1/90, effective 6/1/90.]

WAC 173-322-100 Safe drinking water action grants. (1) **Purpose.** The purpose of the safe drinking water action grant program is to assist local governments, or a local government applying on behalf of a purveyor, in providing safe drinking water to areas contaminated by, or threatened by contamination from, hazardous waste sites.

(2) **Applicant eligibility.** To be eligible for a safe drinking water action grant, the applicant must meet the following requirements:

(a) The applicant must be a local government, as defined in WAC 173-322-020;

(b) The applicant must be a purveyor, as defined in WAC 173-322-020, or the applicant must be applying on behalf of a purveyor;

(c) The applicant must be in substantial compliance, as determined by the department of health, with applicable rules of the state board of health or the department of health, as contained in chapter 246-290 WAC (Public water supplies), chapter 246-292 WAC (Water works operator certification), chapter 246-293 WAC (Water System Coordination Act), and chapter 246-294 WAC (Drinking water operating permits);

(d) The public water system must be located in an area determined by the department to be a hazardous waste site or threatened by contamination from a hazardous waste site;

(e) The public water system must exhibit levels of contamination which exceed the primary maximum contaminant levels (MCLs) established by the state board of health and set forth in WAC 246-290-310, exhibit levels of contamination which exceed the cleanup standards established by the department of ecology under WAC 173-340-700 through 173-340-760, or be certified by the state department of health that a contaminant threatens the safety and reliability of a public water system which cannot be remedied solely by operational solutions. Contaminants must include at least one hazardous substance. If the contaminant is a nitrate or trihalomethane, it must be determined to have originated from a hazardous waste site;

(f) An order or decree must require safe drinking water action. The department may waive this requirement if it has determined that no viable potentially liable person (PLP) exists or that public health would be threatened from unreasonable delays associated with the search for PLPs or the development of an order or decree. If the safe drinking water action is required under an order or decree issued under the federal cleanup law, then the order or decree must have been signed or acknowledged in writing by the department as a sufficient basis for remedial action grant funding; and

(g) If the safe drinking water action includes water line extensions, then the extensions must be consistent with the coordinated water system plan and growth management plan for the geographic area containing the affected water supplies.

(3) Application process.

(a) **Submittal.** If the safe drinking water actions are required under an order or decree, then the grant application must be submitted to the department within sixty days of the effective date of the order or decree. If the safe drinking water actions are not required under an order or decree, then the grant application may be submitted to the department at any time.

(b) **Content.** The grant application must be completed on forms provided by the department and include the following:

(i) Sufficient evidence to demonstrate compliance with the eligibility requirements in subsection (2) of this section;

(ii) A description of the history of the site, the current status of the site, the threat posed by the site to the public water system, and the remedial actions to be performed at the site to address that threat;

(iii) A description of the environmental benefits of the project;

(iv) A copy of the order or decree, if applicable;

(v) A copy of the scope of work that specifies the remedial actions to be performed at the site to address the threat to the public water system;

(vi) A budget for the scope of work;

(vii) A description of all current or potential sources of funding including, but not limited to, other grants or loans and proceeds from contribution or insurance claims; and

(viii) A commitment by the applicant to provide the required matching funds and a description of the sources of those funds.

(4) Application evaluation and prioritization.

(a) The grant application will be evaluated by the department for completeness and adequacy. After the application

has been completed, the department and the applicant will negotiate the scope of work and budget for the grant. The department will consider cost eligibility and other sources of funding when negotiating the scope of work and budget for the grant.

(b) When pending grant applications or anticipated demand for safe drinking water action grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the following:

(i) Relative risk to human health as jointly determined by the department of ecology, in accordance with WAC 173-340-330, and the department of health, in accordance with WAC 246-290-310. Sites with greater risk will receive higher funding priority;

(ii) Relative readiness of the applicant to proceed promptly to accomplish the scope of work;

(iii) Ownership of the water system to be extended or improved. Local government-owned systems will receive higher funding priority than other systems; and

(iv) Number of people served by the water system and per capita cost of remediation.

(5) **Cost eligibility.** Costs must be eligible under this section and be approved by the department in order to be eligible for reimbursement.

(a) **Eligible costs.** Eligible costs for safe drinking water action grants include, but are not limited to, the reasonable costs for the following:

(i) Water supply source development and replacement, including pumping and storage facilities, source meters, and reasonable appurtenances;

(ii) Transmission lines between major system components, including inter-ties with other water systems;

(iii) Treatment equipment and facilities;

(iv) Distribution lines from major system components to system customers or service connections;

(v) Bottled water, as an interim action;

(vi) Fire hydrants;

(vii) Service meters;

(viii) Project inspection, engineering, and administration;

(ix) Individual service connections, including any fees and charges, provided that property owners substantially participate in financing the cost of such connections;

(x) Drinking water well abandonment for wells identified by the department as an environmental safety or health hazard and decommissioned in accordance with WAC 173-160-381;

(xi) Interim financing where necessary as a prerequisite to local government issuance of revenue bonds;

(xii) Other costs identified by the department of health as necessary to provide a system that operates in compliance with federal and state standards, or by the coordinated water system plan as necessary to meet required standards; and

(xiii) Other costs identified by the department as necessary to protect a public water system from contamination from a hazardous waste site or to determine the source of such contamination.

(b) **Ineligible costs.** Ineligible costs for safe drinking water action grants include, but are not limited to, the following:

(i) Retroactive costs, except as provided under subsection (6) of this section;

(ii) Oversight costs;

(iii) Operating and maintenance costs;

(iv) Natural resource damage assessment costs and natural resource damages;

(v) Legal costs including, but not limited to, the cost of pursuing contribution or insurance claims, the cost of administrative hearings, the cost of pursuing penalties or civil or criminal actions against persons, the cost of penalties incurred by the applicant, the cost of defending actions taken against the applicant, and attorney fees; and

(vi) In-kind services.

(6) **Retroactive cost eligibility.** Retroactive costs are not eligible for reimbursement unless:

(a) The department unreasonably delays the processing of the grant application;

(b) The department provided only partial funding under a prior grant agreement because funds were not available; or

(c) The costs were incurred conducting independent remedial actions and those actions are incorporated as part of the order or decree.

(7) **Funding and reimbursement.**

(a) **Adjustment of eligible costs.** If an order or decree requires a potentially liable person (PLP) or a potentially responsible party (PRP) other than a local government to conduct remedial action, then the department shall deduct the financial contribution of that PLP or PRP from the amount eligible for grant funding. If the applicant receives proceeds from a contribution claim before the effective date of the grant agreement, then the department shall deduct those proceeds from the amount eligible for grant funding, after subtracting from those proceeds the legal costs incurred by the applicant pursuing the contribution claim.

(b) **Funding of eligible costs.** Except as provided under (c) of this subsection, the applicant shall be eligible to receive funding for up to fifty percent of eligible costs.

(c) **Additional funding.** If the applicant is a county, or is located within a county, that is economically disadvantaged, as defined in WAC 173-322-020, then the applicant shall be eligible to receive funding for up to seventy-five percent of eligible costs.

(d) **Match requirement.** The applicant shall fund those eligible costs not funded by the department under the grant. The applicant may not use in-kind services or proceeds from contribution claims to meet the match requirement.

(e) **Reimbursement of grant funds.** If the applicant receives proceeds from a contribution claim after the effective date of the grant agreement, then the applicant shall reimburse the department for a proportional share of those proceeds, after subtracting from those proceeds the legal costs incurred by the applicant pursuing the contribution claim.

[Statutory Authority: RCW 70.105D.070. 05-07-104 (Order 04-06), § 173-322-100, filed 3/18/05, effective 4/18/05. Statutory Authority: Chapter 70.105D RCW. 01-05-024 (Order 97-09A), § 173-322-100, filed 2/12/01, effective 3/15/01. Statutory Authority: RCW 43.21A.080. 93-24-047, § 173-322-100, filed 11/23/93, effective 12/24/93. Statutory Authority: Chapter 70.105D RCW. 90-10-057 (Order 89-45), § 173-322-100, filed 5/1/90, effective 6/1/90.]

WAC 173-322-110 Methamphetamine lab site assessment and cleanup grants. (1) **Purpose.** The purpose of the methamphetamine lab site assessment and cleanup grant program is to provide funding to local health districts and departments that assess and cleanup sites of methamphetamine production. The program is not intended to assist local health districts and departments in the initial containment of methamphetamine lab sites.

(2) **Applicant eligibility.** To be eligible for a methamphetamine lab site assessment and cleanup grant, the applicant must meet the following requirements:

(a) The applicant must be a local health district or department;

(b) The methamphetamine lab site must be located within the jurisdiction of the applicant; and

(c) The scope of work for the assessment or cleanup of a methamphetamine lab site must conform to chapter 246-205 WAC and applicable board of health and department of health guidelines. The scope of work for the methamphetamine lab site assessment must also conform to WAC 173-340-320 and applicable department of ecology guidelines.

(3) **Application process.**

(a) **Submittal.** The application for a methamphetamine lab site assessment and cleanup grant may be submitted to the department at any time.

(b) **Content.** The grant application must be completed on forms provided by the department and include the following:

(i) Sufficient evidence to demonstrate compliance with the applicant eligibility requirements in subsection (2) of this section;

(ii) A description of the work completed under the prior grant agreement, if applicable;

(iii) A description of the anticipated work to be completed under the grant;

(iv) A budget for the anticipated work;

(v) A description of the environmental benefits of the project;

(vi) A description of all current or potential sources of funding including, but not limited to, other grants or loans and proceeds from contribution or insurance claims; and

(vii) A commitment by the applicant to provide the required matching funds and a description of the sources of those funds.

(4) **Application evaluation and prioritization.**

(a) The grant application will be evaluated by the department for completeness and adequacy. After the application has been completed, the department and the applicant will negotiate the scope of work and budget for the grant. The department will consider cost eligibility and other sources of funding when negotiating the scope of work and budget for the grant.

(b) When pending grant applications or anticipated demand for methamphetamine lab site assessment and cleanup grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the following:

(i) Potential public health or environmental threat from the methamphetamine lab sites;

(ii) Ownership of the methamphetamine lab sites. Publicly owned sites will receive priority over privately owned sites; and

(iii) Relative readiness of the applicant to proceed promptly to accomplish the scope of work.

(5) **Cost eligibility.** Costs must be eligible under this section and be approved by the department in order to be eligible for reimbursement.

(a) **Eligible costs.** Eligible costs for methamphetamine lab site assessment and cleanup grants include, but are not limited to, the reasonable costs for the following:

(i) Posting the property, as defined in WAC 246-205-010 and required under WAC 246-205-520;

(ii) Inspecting the property and determining whether the property is contaminated, as required under WAC 246-205-530;

(iii) Posting contaminated property, as defined in WAC 246-205-010 and required under WAC 246-205-560;

(iv) Notifying occupants, property owners, and other persons with an interest in the contaminated property, as required under WAC 246-205-560;

(v) Cleaning up contaminated publicly owned property, as required under WAC 246-205-570, including performing a precleanup site assessment, developing and implementing the cleanup work plan, performing a post-cleanup site assessment, and developing a cleanup report. Eligible costs include the costs incurred by an authorized contractor and the cost of overseeing the work performed by the contractor;

(vi) Overseeing the cleanup of contaminated privately owned property, as required under WAC 246-205-570 and 246-205-580, including reviewing cleanup work plans and reports and inspecting the property during and subsequent to the cleanup;

(vii) Disposal of contaminated property, as defined in WAC 246-205-010, if the property is publicly owned;

(viii) Releasing the property for use, as required under WAC 246-205-580;

(ix) County fees related to deed notification; and

(x) Equipment and training, if approved by the department in advance.

(b) **Ineligible costs.** Ineligible costs for methamphetamine lab site assessment and cleanup grants include, but are not limited to, the following:

(i) Retroactive costs, except as provided under subsection (6) of this section;

(ii) Initial containment of methamphetamine lab sites, as defined in WAC 173-322-020;

(iii) Restricting access to privately owned property, except as required under chapter 246-205 WAC;

(iv) Cleaning up privately owned contaminated property;

(v) Disposal of contaminated property, as defined in WAC 246-205-010, if the property is privately owned;

(vi) Disposal of property that is not contaminated, as defined in WAC 246-205-010;

(vii) Natural resource damage assessment costs and natural resource damages;

(viii) Legal costs including, but not limited to, the cost of pursuing contribution or insurance claims, the cost of administrative hearings, the cost of pursuing penalties or civil or criminal actions against persons, the cost of penalties

incurred by the applicant, the cost of defending actions taken against the applicant, and attorney fees;

(ix) Education and outreach activities; and

(x) In-kind services.

(6) **Retroactive cost eligibility.** Retroactive costs are not eligible for reimbursement unless:

(a) The department unreasonably delays the processing of the grant application; or

(b) The department provided only partial funding under a prior grant agreement because funds were not available.

(7) **Funding and reimbursement.**

(a) **Adjustment of eligible costs.** If the applicant receives proceeds from a contribution claim before the effective date of the grant agreement, then the department shall deduct those proceeds from the amount eligible for grant funding, after subtracting from those proceeds the legal costs incurred by the applicant pursuing the contribution claim.

(b) **Funding of eligible costs.** The applicant shall be eligible to receive funding for up to one hundred percent of eligible methamphetamine lab site assessment costs. Except as provided under (c) of this subsection, the applicant shall also be eligible to receive funding for up to fifty percent of eligible methamphetamine lab site cleanup costs.

(c) **Additional funding.** If the applicant is a county, or is located within a county, that is economically disadvantaged, as defined in WAC 173-322-020, then the applicant shall be eligible to receive funding for up to seventy-five percent of eligible methamphetamine lab site cleanup costs.

(d) **Match requirement.** The applicant shall fund those eligible costs not funded by the department under the grant. The applicant may not use in-kind services or proceeds from contribution claims to meet the match requirement.

(e) **Reimbursement of grant funds.** If the applicant receives proceeds from a contribution claim after the effective date of the grant agreement, then the applicant shall reimburse the department for a proportional share of those proceeds, after subtracting from those proceeds the legal costs incurred by the applicant pursuing the contribution claim.

[Statutory Authority: RCW 70.105D.070. 05-07-104 (Order 04-06), § 173-322-110, filed 3/18/05, effective 4/18/05. Statutory Authority: Chapter 70.105D RCW. 01-05-024 (Order 97-09A), § 173-322-110, filed 2/12/01, effective 3/15/01. Statutory Authority: RCW 43.21A.080. 93-24-047, § 173-322-110, filed 11/23/93, effective 12/24/93. Statutory Authority: Chapter 70.105D RCW. 90-10-057 (Order 89-45), § 173-322-110, filed 5/1/90, effective 6/1/90.]

WAC 173-322-120 Derelict vessel remedial action grants. (1) **Purpose.** The purpose of the derelict vessel remedial action grant program is to provide funding to local governments that clean up and dispose of hazardous substances from abandoned or derelict vessels that pose a threat to human health or the environment.

(2) **Applicant eligibility.** To be eligible for a derelict vessel remedial action grant, the applicant must meet the following requirements:

(a) The applicant must be a local government, as defined in WAC 173-322-020;

(b) The vessel must be an abandoned or derelict vessel, as defined in WAC 173-322-020; and

(c) The applicant must be the owner of the abandoned or derelict vessel.

(3) **Application process.**

(a) **Submittal.** The application for a derelict vessel remedial action grant may be submitted to the department at any time.

(b) **Content.** The grant application must be completed on forms provided by the department and include the following:

(i) Sufficient evidence to demonstrate compliance with the applicant eligibility requirements in subsection (2) of this section;

(ii) A description of the vessel, the types and quantities of hazardous substances located within the vessel, the threat posed by the vessel to human health and the environment, the remedial actions to be performed to address that threat, and the authority under which the remedial action will be performed;

(iii) A copy of the scope of work that specifies the remedial actions to be performed to address the threat;

(iv) A description of the environmental benefits of the project;

(v) A budget for the scope of work;

(vi) A description of all current or potential sources of funding including, but not limited to, other grants or loans and proceeds from contribution or insurance claims; and

(vii) A commitment by the applicant to provide the required matching funds and a description of the sources of those funds.

(4) **Application evaluation and prioritization.**

(a) The grant application will be evaluated by the department for completeness and adequacy. After the application has been completed, the department and the applicant will negotiate the scope of work and budget for the grant. The department will consider cost eligibility and other sources of funding when negotiating the scope of work and budget for the grant.

(b) When pending grant applications or anticipated demand for derelict vessel remedial action grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the following:

(i) Relative risk to human health and the environment;

(ii) Evidence that the grant will expedite cleanup; and

(iii) Relative readiness of the applicant to proceed promptly to accomplish the scope of work.

(5) **Cost eligibility.** Costs must be eligible under this section and be approved by the department in order to be eligible for reimbursement.

(a) **Eligible costs.** Eligible costs for a derelict vessel remedial action grant include, but are not limited to, the reasonable costs for the following:

(i) Remedial investigation of the vessel, including sampling and analysis; and

(ii) Removal and disposal of hazardous substances and materials designated as dangerous wastes under chapter 173-303 WAC.

(b) **Ineligible costs.** Ineligible costs for a derelict vessel remedial action grant include, but are not limited to, the following:

(i) Retroactive costs, except as provided in subsection (6) of this section;

(ii) Administrative cost of taking ownership of the vessel;

(iii) Removal and disposal of materials that are not hazardous substances or designated as dangerous wastes under chapter 173-303 WAC;

(iv) Disposal of the vessel at a landfill, including transport of the vessel;

(v) Disposal of the vessel at sea;

(vi) Natural resource damage assessment costs and natural resource damages;

(vii) Legal costs including, but not limited to, the cost of pursuing contribution or insurance claims, the cost of administrative hearings, the cost of pursuing penalties or civil or criminal actions against persons, the cost of penalties incurred by the applicant, the cost of defending actions taken against the applicant, and attorney fees; and

(viii) In-kind services.

(6) **Retroactive cost eligibility.** Retroactive costs are not eligible for reimbursement unless:

(a) The department unreasonably delays the processing of the grant application; or

(b) The department provided only partial funding under a prior grant agreement because funds were not available.

(7) **Funding and reimbursement.**

(a) **Adjustment of eligible costs.** If the applicant receives proceeds from a contribution claim before the effective date of the grant agreement, then the department shall deduct those proceeds from the amount eligible for grant funding, after subtracting from those proceeds the legal costs incurred by the applicant pursuing the contribution claim.

(b) **Funding of eligible costs.** Except as provided under (c) of this subsection, the applicant shall be eligible to receive funding for up to fifty percent of eligible costs, not to exceed twenty-five thousand dollars.

(c) **Additional funding.** If the applicant is a county, or is located within a county, that is economically disadvantaged, as defined in WAC 173-322-020, then the applicant shall be eligible to receive funding for up to seventy-five percent of eligible costs, not to exceed twenty-five thousand dollars.

(d) **Match requirement.** The applicant shall fund those eligible costs not funded by the department under the grant. The applicant may not use in-kind services or proceeds from contribution claims to meet the match requirement.

(e) **Reimbursement of grant funds.** If the applicant receives proceeds from a contribution claim after the effective date of the grant agreement, then the applicant shall reimburse the department for a proportional share of those proceeds, after subtracting from those proceeds the legal costs incurred by the applicant pursuing the contribution claim.

[Statutory Authority: RCW 70.105D.070. 05-07-104 (Order 04-06), § 173-322-120, filed 3/18/05, effective 4/18/05. Statutory Authority: Chapter 70.105D RCW. 01-05-024 (Order 97-09A), § 173-322-120, filed 2/12/01, effective 3/15/01; 90-10-057 (Order 89-45), § 173-322-120, filed 5/1/90, effective 6/1/90.]

WAC 173-322-130 Loans. (1) **Purpose.** This section establishes requirements for a program of remedial action loans to local governments under RCW 70.105D.070 (3)(a) and (7). The loan program shall be limited to providing loans to supplement local government funding and funding from other sources to meet the match requirements for oversight

remedial action grants. The intent of the loan program is to encourage and expedite the cleanup of hazardous waste sites and to lessen the impact of the cleanup cost on ratepayers and taxpayers.

(2) **Applicant eligibility.** To be eligible for a loan, the applicant must meet the following requirements:

(a) The applicant must be a local government, as defined in WAC 173-322-020;

(b) The applicant must meet the eligibility requirements for an oversight remedial action grant set forth in WAC 173-322-070(2);

(c) The applicant must agree to undergo an independent third-party financial review to determine its financial need for the loan, ability to repay the loan, and inability to obtain funds from any other source. The financial review shall be conducted at the direction and cost of the department; and

(d) The hazardous waste site must present an immediate danger to human health and the environment.

(3) **Application process.**

(a) **Submittal.** The loan application must be submitted to the department at the same time as the associated oversight remedial action grant application.

(b) **Content.** The loan application must be completed on forms provided by the department and include the following:

(i) Sufficient evidence to demonstrate the applicant's financial need for the loan, ability to repay the loan, and inability to obtain matching funds from any other source;

(ii) Sufficient evidence that the hazardous waste site presents an immediate danger to human health and the environment; and

(iii) A copy of the applicant's most recent Comprehensive Annual Financial Report.

(4) **Application evaluation and prioritization.**

(a) The department will evaluate the loan application together with the associated oversight remedial action grant application. The grant and loan applications will be evaluated by the department for completeness and adequacy. After the grant and loan applications have been completed, the department and the applicant will negotiate a scope of work and budget for the grant and loan. The department will consider cost eligibility and other sources of funding when negotiating the scope of work and budget for the grant and loan.

(b) The department will fund the loan from the same fund allocation used to fund the associated oversight remedial action grant. When the demand for funds allocated for oversight remedial action grants and loans exceeds the amount of funds available, the department will prioritize the associated grant and loan applications together using the criteria set forth in WAC 173-322-070(5).

(5) **Cost eligibility.** The eligible costs for the loan program shall be the same as the eligible costs for the oversight remedial action grant program set forth in WAC 173-322-070(6).

(6) **Retroactive cost eligibility.** The eligibility of retroactive costs for the loan program shall be the same as the eligibility of retroactive costs for the oversight remedial action grant program set forth in WAC 173-322-070(7).

(7) **Funding and repayment.**

(a) **General.** If the department provides the applicant an oversight remedial action grant and the grant is funded to the maximum extent allowed under WAC 173-322-070(8), then

the department may also provide the applicant a loan to enable the applicant to meet the match requirement for the grant. The loan shall be used to supplement local government funding and funding from other sources to meet the match requirement.

(b) **Department funding of match requirement.** The department may provide a loan to the applicant for up to one hundred percent of the match requirement for the oversight remedial action grant.

(c) **Local government funding of match requirement.** The applicant shall fund those eligible costs not funded by the department under the grant or loan. The applicant may not use in-kind services or proceeds from contribution claims to meet the match requirement.

(d) **Repayment of loan.** The terms and conditions for repayment of the loan shall be based on the applicant's ability to repay the loan, as determined by an independent third-party financial review. The independent third-party financial review shall be conducted at the direction and cost of the department.

[Statutory Authority: RCW 70.105D.070, 05-07-104 (Order 04-06), § 173-322-130, filed 3/18/05, effective 4/18/05.]

Chapter 173-350 WAC

SOLID WASTE HANDLING STANDARDS

WAC

173-350-100 Definitions.

WAC 173-350-100 Definitions. When used in this chapter, the following terms have the meanings given below.

"Active area" means that portion of a facility where solid waste recycling, reuse, treatment, storage, or disposal operations are being, are proposed to be, or have been conducted. Setbacks shall not be considered part of the active area of a facility.

"Agricultural composting" means composting of agricultural waste as an integral component of a system designed to improve soil health and recycle agricultural wastes. Agricultural composting is conducted on lands used for farming.

"Agricultural wastes" means wastes on farms resulting from the raising or growing of plants and animals including, but not limited to, crop residue, manure and animal bedding, and carcasses of dead animals weighing each or collectively in excess of fifteen pounds.

"Agronomic rates" means the application rate (dry weight basis) that will provide the amount of nitrogen or other critical nutrient required for optimum growth of vegetation, and that will not result in the violation of applicable standards or requirements for the protection of ground or surface water as established under chapter 90.48 RCW, Water pollution control and related rules including chapter 173-200 WAC, Water quality standards for ground waters of the state of Washington, and chapter 173-201A WAC, Water quality standards for surface waters of the state of Washington.

"Air quality standard" means a standard set for maximum allowable contamination in ambient air as set forth in chapter 173-400 WAC, General regulations for air pollution sources.

"Below ground tank" means a device meeting the definition of "tank" in this chapter where a portion of the tank

wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface of the tank that is in the ground.

"Beneficial use" means the use of solid waste as an ingredient in a manufacturing process, or as an effective substitute for natural or commercial products, in a manner that does not pose a threat to human health or the environment. Avoidance of processing or disposal cost alone does not constitute beneficial use.

"Biosolids" means municipal sewage sludge that is a primarily organic, semisolid product resulting from the wastewater treatment process, that can be beneficially recycled and meets all applicable requirements under chapter 173-308 WAC, Biosolids management. Biosolids includes a material derived from biosolids and septic tank sludge, also known as septage, that can be beneficially recycled and meets all applicable requirements under chapter 173-308 WAC, Biosolids management.

"Buffer" means a permanently vegetated strip adjacent to an application area, the purpose of which is to filter runoff or overspray from the application area and protect an adjacent area.

"Cab cards" means a license carried in a vehicle that authorizes that vehicle to legally pick up waste tires and haul to a permitted, licensed facility or an exempt facility for deposit.

"Captive insurance companies" means companies that are wholly owned subsidiaries controlled by the parent company and established to insure the parent company or its other subsidiaries.

"Channel migration zone" means the lateral extent of likely movement of a stream or river channel along a stream reach.

"Clean soils and clean dredged material" means soils and dredged material which are not dangerous wastes, contaminated soils, or contaminated dredged material as defined in this section.

"Closure" means those actions taken by the owner or operator of a solid waste handling facility to cease disposal operations or other solid waste handling activities, to ensure that all such facilities are closed in conformance with applicable regulations at the time of such closures and to prepare the site for the post-closure period.

"Closure plan" means a written plan developed by an owner or operator of a facility detailing how a facility is to close at the end of its active life.

"Composted material" means organic solid waste that has undergone biological degradation and transformation under controlled conditions designed to promote aerobic decomposition at a solid waste facility in compliance with the requirements of this chapter. Natural decay of organic solid waste under uncontrolled conditions does not result in composted material.

"Composting" means the biological degradation and transformation of organic solid waste under controlled conditions designed to promote aerobic decomposition. Natural decay of organic solid waste under uncontrolled conditions is not composting.

"Conditionally exempt small quantity generator (CESQG)" means a dangerous waste generator whose dangerous wastes are not subject to regulation under chapter

70.105 RCW, Hazardous waste management, solely because the waste is generated or accumulated in quantities below the threshold for regulation and meets the conditions prescribed in WAC 173-303-070 (8)(b).

"Conditionally exempt small quantity generator (CESQG) waste" means dangerous waste generated by a conditionally exempt small quantity generator.

"Container" means a portable device used for the collection, storage, and/or transportation of solid waste including, but not limited to, reusable containers, disposable containers, and detachable containers.

"Contaminant" means any chemical, physical, biological, or radiological substance that does not occur naturally in the environment or that occurs at concentrations greater than natural background levels.

"Contaminate" means the release of solid waste, leachate, or gases emitted by solid waste, such that contaminants enter the environment at concentrations that pose a threat to human health or the environment, or cause a violation of any applicable environmental regulation.

"Contaminated dredged material" means dredged material resulting from the dredging of surface waters of the state where contaminants are present in the dredged material at concentrations not suitable for open water disposal and the dredged material is not dangerous waste and is not regulated by section 404 of the Federal Clean Water Act (P.L. 95-217).

"Contaminated soils" means soils removed during the cleanup of a hazardous waste site, or a dangerous waste facility closure, corrective actions or other clean-up activities and which contain harmful substances but are not designated dangerous wastes.

"Corrosion expert" means a person certified by the National Association of Corrosion Engineers (NACE) or a registered professional engineer who has certification or licensing that includes education and experience in corrosion control.

"Crop residues" means vegetative material leftover from the harvesting of crops, including leftover pieces or whole fruits or vegetables, crop leaves and stems. Crop residue does not include food processing waste.

"Dangerous wastes" means any solid waste designated as dangerous waste by the department under chapter 173-303 WAC, Dangerous waste regulations.

"Department" means the Washington state department of ecology.

"Detachable containers" means reusable containers that are mechanically loaded or handled, such as a dumpster or drop box.

"Disposable containers" means containers that are used once to handle solid waste, such as plastic bags, cardboard boxes and paper bags.

"Disposal" or **"deposition"** means the discharge, deposit, injection, dumping, leaking, or placing of any solid waste into or on any land or water.

"Domestic septage" means Class I, II or III domestic septage as defined in chapter 173-308 WAC, Biosolids management.

"Domestic wastewater facility" means all structures, equipment, or processes required to collect, carry away, treat, reclaim, or dispose of domestic wastewater together with such industrial waste as may be present.

"Drop box facility" means a facility used for the placement of a detachable container including the area adjacent for necessary entrance and exit roads, unloading and turn-around areas. Drop box facilities normally serve the general public with loose loads and receive waste from off-site.

"Energy recovery" means the recovery of energy in a useable form from mass burning or refuse-derived fuel incineration, pyrolysis or any other means of using the heat of combustion of solid waste that involves high temperature (above twelve hundred degrees Fahrenheit) processing.

"Existing facility" means a facility which is owned or leased, and in operation, or for which facility construction has begun, on or before the effective date of this chapter and the owner or operator has obtained permits or approvals necessary under federal, state and local statutes, regulations and ordinances.

"Facility" means all contiguous land (including buffers and setbacks) and structures, other appurtenances, and improvements on the land used for solid waste handling.

"Facility construction" means the continuous on-site physical act of constructing solid waste handling unit(s) or when the owner or operator of a facility has entered into contractual obligations for physical construction of the facility that cannot be canceled or modified without substantial financial loss.

"Facility structures" means constructed infrastructure such as buildings, sheds, utility lines, and piping on the facility.

"Garbage" means animal and vegetable waste resulting from the handling, storage, sale, preparation, cooking, and serving of foods.

"Ground water" means that part of the subsurface water that is in the zone of saturation.

"Holocene fault" means a plane along which earthen material on one side has been displaced with respect to that on the other side and has occurred in the most recent epoch of the Quaternary period extending from the end of the Pleistocene to the present.

"Home composting" means composting of on-site generated wastes, and incidental materials beneficial to the composting process, by the owner or person in control of a single-family residence, or for a dwelling that houses two to five families, such as a duplex or clustered dwellings.

"Household hazardous wastes" means any waste which exhibits any of the properties of dangerous wastes that is exempt from regulation under chapter 70.105 RCW, Hazardous waste management, solely because the waste is generated by households. Household hazardous waste can also include other solid waste identified in the local hazardous waste management plan prepared pursuant to chapter 70.105 RCW, Hazardous waste management.

"Hydrostratigraphic unit" means any water-bearing geologic unit or units hydraulically connected or grouped together on the basis of similar hydraulic conductivity which can be reasonably monitored; several geologic formations or part of a geologic formation may be grouped into a single hydrostratigraphic unit; perched sand lenses may be considered a hydrostratigraphic unit or part of a hydrostratigraphic unit, for example.

"Incineration" means reducing the volume of solid wastes by use of an enclosed device using controlled flame combustion.

"Incompatible waste" means a waste that is unsuitable for mixing with another waste or material because the mixture might produce excessive heat or pressure, fire or explosion, violent reaction, toxic dust, fumes, mists, or gases, or flammable fumes or gases.

"Industrial solid wastes" means solid waste generated from manufacturing operations, food processing, or other industrial processes.

"Industrial wastewater facility" means all structures, equipment, or processes required to collect, carry away, treat, reclaim, or dispose of industrial wastewater.

"Inert waste" means solid wastes that meet the criteria for inert waste in WAC 173-350-990.

"Inert waste landfill" means a landfill that receives only inert wastes.

"Intermediate solid waste handling facility" means any intermediate use or processing site engaged in solid waste handling which is not the final site of disposal. This includes material recovery facilities, transfer stations, drop boxes, baling and compaction sites.

"Intermodal facility" means any facility operated for the purpose of transporting closed containers of waste and the containers are not opened for further treatment, processing or consolidation of the waste.

"Jurisdictional health department" means city, county, city-county or district public health department.

"Land application site" means a contiguous area of land under the same ownership or operational control on which solid wastes are beneficially utilized for their agronomic or soil-amending capability.

"Land reclamation" means using solid waste to restore drastically disturbed lands including, but not limited to, construction sites and surface mines. Using solid waste as a component of fill is not land reclamation.

"Landfill" means a disposal facility or part of a facility at which solid waste is permanently placed in or on land including facilities that use solid waste as a component of fill.

"Leachate" means water or other liquid within a solid waste handling unit that has been contaminated by dissolved or suspended materials due to contact with solid waste or gases.

"Limited moderate risk waste" means waste batteries, waste oil, and waste antifreeze generated from households.

"Limited moderate risk waste facility" means a facility that collects, stores, and consolidates only limited moderate risk waste.

"Limited purpose landfill" means a landfill which is not regulated or permitted by other state or federal environmental regulations that receives solid wastes limited by type or source. Limited purpose landfills include, but are not limited to, landfills that receive segregated industrial solid waste, construction, demolition and landclearing debris, wood waste, ash (other than special incinerator ash), and dredged material. Limited purpose landfills do not include inert waste landfills, municipal solid waste landfills regulated under chapter 173-351 WAC, Criteria for municipal solid waste landfills, landfills disposing of special incinerator ash regulated under chapter 173-306 WAC, Special incinerator ash

management standards, landfills regulated under chapter 173-303 WAC, Dangerous waste regulations, or chemical waste landfills used for the disposal of polychlorinated biphenyls (PCBs) regulated under Title 40 CFR Part 761, Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions.

"Liquid" means a substance that flows readily and assumes the form of its container but retains its independent volume.

"Liquid waste" means any solid waste which is deemed to contain free liquids as determined by the Paint Filter Liquids Test, Method 9095, in *"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,"* EPA Publication SW-846.

"Lithified earth material" means all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. This term does not include man-made materials, such as fill, concrete or asphalt, or unconsolidated earth materials, soil or regolith lying at or near the earth's surface.

"Local fire control agency" means a public or private agency or corporation providing fire protection such as a local fire department, the department of natural resources or the United States Forest Service.

"Lower explosive limits" means the lowest percentage by volume of a mixture of explosive gases that will propagate a flame in air at twenty-five degrees centigrade and atmospheric pressure.

"Material recovery facility" means any facility that collects, compacts, repackages, sorts, or processes for transport source separated solid waste for the purpose of recycling.

"Mobile systems and collection events" means activities conducted at a temporary location to collect moderate risk waste.

"Moderate risk waste (MRW)" means solid waste that is limited to conditionally exempt small quantity generator (CESQG) waste and household hazardous waste (HHW) as defined in this chapter.

"MRW facility" means a solid waste handling unit that is used to collect, treat, recycle, exchange, store, consolidate, and/or transfer moderate risk waste. This does not include mobile systems and collection events or limited MRW facilities that meet the applicable terms and conditions of WAC 173-350-360 (2) or (3).

"Municipal solid waste (MSW)" means a subset of solid waste which includes unsegregated garbage, refuse and similar solid waste material discarded from residential, commercial, institutional and industrial sources and community activities, including residue after recyclables have been separated. Solid waste that has been segregated by source and characteristic may qualify for management as a non-MSW solid waste, at a facility designed and operated to address the waste's characteristics and potential environmental impacts. The term MSW does not include:

■ Dangerous wastes other than wastes excluded from the requirements of chapter 173-303 WAC, Dangerous waste regulations, in WAC 173-303-071 such as household hazardous wastes;

■ Any solid waste, including contaminated soil and debris, resulting from response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601), chapter 70.105D RCW, Hazardous waste cleanup—Model Toxics Control Act, chapter 173-340 WAC, the Model Toxics Control Act cleanup regulation or a remedial action taken under those rules; nor

■ Mixed or segregated recyclable material that has been source-separated from garbage, refuse and similar solid waste. The residual from source separated recyclables is MSW.

"Natural background" means the concentration of chemical, physical, biological, or radiological substances consistently present in the environment that has not been influenced by regional or localized human activities. Metals at concentrations naturally occurring in bedrock, sediments and soils due solely to the geologic processes that formed the materials are natural background. In addition, low concentrations of other persistent substances due solely to the global use or formation of these substances are natural background.

"New solid waste handling unit" means a solid waste handling unit that begins operation or facility construction, and significant modifications to existing solid waste handling units, after the effective date of this chapter.

"Nuisance odor" means any odor which is found offensive or may unreasonably interfere with any person's health, comfort, or enjoyment beyond the property boundary of a facility.

"One hundred year flood plain" means any land area that is subject to one percent or greater chance of flooding in any given year from any source.

"Open burning" means the burning of solid waste materials in an open fire or an outdoor container without providing for the control of combustion or the control of emissions from the combustion.

"Overburden" means the earth, rock, soil, and topsoil that lie above mineral deposits.

"Permeability" means the ease with which a porous material allows liquid or gaseous fluids to flow through it. For water, this is usually expressed in units of centimeters per second and termed hydraulic conductivity.

"Permit" means an authorization issued by the jurisdictional health department which allows a person to perform solid waste activities at a specific location and which includes specific conditions for such facility operations.

"Person" means an individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatever.

"Pile" means any noncontainerized accumulation of solid waste that is used for treatment or storage.

"Plan of operation" means the written plan developed by an owner or operator of a facility detailing how a facility is to be operated during its active life.

"Point of compliance" means a point established in the ground water by the jurisdictional health department as near a possible source of release as technically, hydrogeologically and geographically feasible.

"Post-closure" means the requirements placed upon disposal facilities after closure to ensure their environmental

safety for at least a twenty-year period or until the site becomes stabilized (i.e., little or no settlement, gas production, or leachate generation).

"Post-closure plan" means a written plan developed by an owner or operator of a facility detailing how a facility is to meet the post-closure requirements for the facility.

"Premises" means a tract or parcel of land with or without habitable buildings.

"Private facility" means a privately owned facility maintained on private property solely for the purpose of managing waste generated by the entity owning the site.

"Processing" means an operation to convert a material into a useful product or to prepare it for reuse, recycling, or disposal.

"Product take-back center" means a retail outlet or distributor that accepts household hazardous waste of comparable types as the products offered for sale or distributed at that outlet.

"Public facility" means a publicly or privately owned facility that accepts solid waste generated by other persons;

"Putrescible waste" means solid waste which contains material capable of being readily decomposed by microorganisms and which is likely to produce offensive odors.

"Pyrolysis" means the process in which solid wastes are heated in an enclosed device in the absence of oxygen to vaporization, producing a hydrocarbon-rich gas capable of being burned for recovery of energy.

"Recyclable materials" means those solid wastes that are separated for recycling or reuse, including, but not limited to, papers, metals, and glass, that are identified as recyclable material pursuant to a local comprehensive solid waste plan.

"Recycling" means transforming or remanufacturing waste materials into usable or marketable materials for use other than landfill disposal or incineration. Recycling does not include collection, compacting, repackaging, and sorting for the purpose of transport.

"Representative sample" means a sample that can be expected to exhibit the average properties of the sample source.

"Reserved" means a section having no requirements and which is set aside for future possible rule making as a note to the regulated community.

"Reusable containers" means containers that are used more than once to handle solid waste, such as garbage cans.

"Runoff" means any rainwater, leachate or other liquid that drains over land from any part of the facility.

"Run-on" means any rainwater or other liquid that drains over land onto any part of a facility.

"Scavenging" means the removal of materials at a disposal facility, or intermediate solid waste-handling facility, without the approval of the owner or operator and the jurisdictional health department.

"Seismic impact zone" means an area with a ten percent or greater probability that the maximum horizontal acceleration in lithified earth material, expressed as a percentage of the earth's gravitational pull, will exceed 0.10g in two hundred fifty years.

"Setback" means that part of a facility that lies between the active area and the property boundary.

"Sewage sludge" means solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a

treatment works. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in primary, secondary, or advanced wastewater treatment processes; and a material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated.

"Soil amendment" means any substance that is intended to improve the physical characteristics of soil, except composted material, commercial fertilizers, agricultural liming agents, unmanipulated animal manures, unmanipulated vegetable manures, food wastes, food processing wastes, and materials exempted by rule of the department, such as biosolids as defined in chapter 70.95J RCW, Municipal sewage sludge—Biosolids and wastewater, as regulated in chapter 90.48 RCW, Water pollution control.

"Solid waste" or **"wastes"** means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, contaminated soils and contaminated dredged material, and recyclable materials.

"Solid waste handling" means the management, storage, collection, transportation, treatment, use, processing or final disposal of solid wastes, including the recovery and recycling of materials from solid wastes, the recovery of energy resources from such wastes or the conversion of the energy in such wastes to more useful forms or combinations thereof.

"Solid waste handling unit" means discrete areas of land, sealed surfaces, liner systems, excavations, facility structures, or other appurtenances within a facility used for solid waste handling.

"Source separation" means the separation of different kinds of solid waste at the place where the waste originates.

"Storage" means the holding of solid waste materials for a temporary period.

"Surface impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), and which is designed to hold an accumulation of liquids or sludges. The term includes holding, storage, settling, and aeration pits, ponds, or lagoons, but does not include injection wells.

"Surface water" means all lakes, rivers, ponds, wetlands, streams, inland waters, salt waters and all other surface water and surface water courses within the jurisdiction of the state of Washington.

"Tank" means a stationary device designed to contain an accumulation of liquid or semisolid materials meeting the definition of solid waste or leachate, and which is constructed primarily of nonearthen materials to provide structural support.

"Transfer station" means a permanent, fixed, supplemental collection and transportation facility, used by persons and route collection vehicles to deposit collected solid waste from off-site into a larger transfer vehicle for transport to a solid waste handling facility.

"Treatment" means the physical, chemical, or biological processing of solid waste to make such solid wastes safer

for storage or disposal, amenable for recycling or energy recovery, or reduced in volume.

"Twenty-five-year storm" means a storm of twenty-four hours duration and of such intensity that it has a four percent probability of being equaled or exceeded each year.

"Type 1 feedstocks" means source-separated yard and garden wastes, wood wastes, agricultural crop residues, wax-coated cardboard, preconsumer vegetative food wastes, other similar source-separated materials that the jurisdictional health department determines to have a comparable low level of risk in hazardous substances, human pathogens, and physical contaminants.

"Type 2 feedstocks" means manure and bedding from herbivorous animals that the jurisdictional health department determines to have a comparable low level of risk in hazardous substances and physical contaminants when compared to a type 1 feedstock.

"Type 3 feedstocks" means meat and postconsumer source-separated food wastes or other similar source-separated materials that the jurisdictional health department determines to have a comparable low level of risk in hazardous substances and physical contaminants, but are likely to have high levels of human pathogens.

"Type 4 feedstocks" means mixed municipal solid wastes, postcollection separated or processed solid wastes, industrial solid wastes, industrial biological treatment sludges, or other similar compostable materials that the jurisdictional health department determines to have a comparable high level of risk in hazardous substances, human pathogens and physical contaminants.

"Universal wastes" means universal wastes as defined in chapter 173-303 WAC, Dangerous waste regulations. Universal wastes include, but may not be limited to, dangerous waste batteries, mercury-containing thermostats, and universal waste lamps generated by fully regulated dangerous waste generators or CESQGs.

"Unstable area" means a location that is susceptible to forces capable of impairing the integrity of the facility's liners, monitoring system or structural components. Unstable areas can include poor foundation conditions and areas susceptible to mass movements.

"Vadose zone" means that portion of a geologic formation in which soil pores contain some water, the pressure of that water is less than atmospheric pressure, and the formation occurs above the zone of saturation.

"Vector" means a living animal, including, but not limited to, insects, rodents, and birds, which is capable of transmitting an infectious disease from one organism to another.

"Vermicomposting" means the controlled and managed process by which live worms convert organic residues into dark, fertile, granular excrement.

"Waste tires" means any tires that are no longer suitable for their original intended purpose because of wear, damage or defect. Used tires, which were originally intended for use on public highways that are considered unsafe in accordance with RCW 46.37.425, are waste tires. Waste tires also include quantities of used tires that may be suitable for their original intended purpose when mixed with tires considered unsafe per RCW 46.37.425.

"Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration

sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

"Wood derived fuel" means wood pieces or particles used as a fuel for energy recovery, which contain paint, bonding agents, or creosote. Wood derived fuel does not include wood pieces or particles coated with paint that contains lead or mercury, or wood treated with other chemical preservatives such as pentachlorophenol, copper naphthanate, or copper-chrome-arsenate.

"Wood waste" means solid waste consisting of wood pieces or particles generated as a by-product or waste from the manufacturing of wood products, construction, demolition, handling and storage of raw materials, trees and stumps. This includes, but is not limited to, sawdust, chips, shavings, bark, pulp, hogged fuel, and log sort yard waste, but does not include wood pieces or particles containing paint, laminates, bonding agents or chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenate.

"Yard debris" means plant material commonly created in the course of maintaining yards and gardens and through horticulture, gardening, landscaping or similar activities. Yard debris includes, but is not limited to, grass clippings, leaves, branches, brush, weeds, flowers, roots, windfall fruit, and vegetable garden debris.

"Zone of saturation" means that part of a geologic formation in which soil pores are filled with water and the pressure of that water is equal to or greater than atmospheric pressure.

[Statutory Authority: Chapter 70.95 RCW. 05-11-033 (Order 04-12), § 173-350-100, filed 5/10/05, effective 6/10/05; 03-03-043 (Order 99-24), § 173-350-100, filed 1/10/03, effective 2/10/03.]

Chapter 173-400 WAC

GENERAL REGULATIONS FOR AIR POLLUTION SOURCES

WAC

173-400-030	Definitions.
173-400-040	General standards for maximum emissions.
173-400-050	Emission standards for combustion and incineration units.
173-400-060	Emission standards for general process units.
173-400-070	Emission standards for certain source categories.
173-400-075	Emission standards for sources emitting hazardous air pollutants.
173-400-099	Registration program.
173-400-100	Source classifications.
173-400-102	Scope of registration and reporting requirements.
173-400-104	Registration fees.
173-400-105	Records, monitoring, and reporting.
173-400-110	New source review (NSR).
173-400-112	Requirements for new sources in nonattainment areas.
173-400-113	Requirements for new sources in attainment or unclassified areas.
173-400-115	Standards of performance for new sources.
173-400-116	New source review fees.
173-400-117	Special protection requirements for federal Class I areas.
173-400-118	Designation of Class I, II, and III areas.
173-400-120	Bubble rules.
173-400-131	Issuance of emission reduction credits.
173-400-136	Use of emission reduction credits (ERC).
173-400-151	Retrofit requirements for visibility protection.
173-400-171	Public involvement.
173-400-175	Public information.
173-400-200	Creditable stack height and dispersion techniques.
173-400-560	General order of approval.

173-400-700	Review of major stationary sources of air pollution.
173-400-710	Definitions.
173-400-720	Prevention of significant deterioration (PSD).
173-400-730	Prevention of significant deterioration application processing procedures.
173-400-740	PSD permitting public involvement requirements.
173-400-750	Revisions to PSD permits.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

173-400-141	Prevention of significant deterioration (PSD). [Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-141, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), § 173-400-141, filed 9/13/96, effective 10/14/96; 93-18-007 (Order 93-03), § 173-400-141, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-141, filed 2/19/91, effective 3/22/91.] Repealed by 05-03-033 (Order 03-07), filed 1/10/05, effective 2/10/05. Statutory Authority: RCW 70.94.152.
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WAC 173-400-030 Definitions. Except as provided elsewhere in this chapter, the following definitions apply throughout the chapter:

(1) **"Actual emissions"** means the actual rate of emissions of a pollutant from an emission unit, as determined in accordance with (a) through (c) of this subsection.

(a) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. Ecology or an authority shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the emissions unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(b) Ecology or an authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the emissions unit.

(c) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the emissions unit on that date.

(2) **"Adverse impact on visibility"** is defined in WAC 173-400-117.

(3) **"Air contaminant"** means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof. "Air pollutant" means the same as "air contaminant."

(4) **"Air pollution"** means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities, and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property. For the purposes of this chapter, air pollution shall not include air contaminants emitted in compliance with chapter 17.21 RCW, the Washington Pesticide Application Act, which regulates the application and control of the use of various pesticides.

(5) **"Allowable emissions"** means the emission rate of a source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable

limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(a) The applicable standards as in 40 CFR Part 60, 61, 62, or 63;

(b) Any applicable SIP emissions limitation including those with a future compliance date; or

(c) The emissions rate specified as a federally enforceable approval condition, including those with a future compliance date.

(6) **"Ambient air"** means the surrounding outside air.

(7) **"Ambient air quality standard"** means an established concentration, exposure time, and frequency of occurrence of air contaminant(s) in the ambient air which shall not be exceeded.

(8) **"Approval order"** is defined in **"order of approval."**

(9) **"Attainment area"** means a geographic area designated by EPA at 40 CFR Part 81 as having attained the National Ambient Air Quality Standard for a given criteria pollutant.

(10) **"Authority"** means any air pollution control agency whose jurisdictional boundaries are coextensive with the boundaries of one or more counties.

(11) **"Begin actual construction"** means, in general, initiation of physical on-site construction activities on an emission unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipe work and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(12) **"Best available control technology (BACT)"** means an emission limitation based on the maximum degree of reduction for each air pollutant subject to regulation under chapter 70.94 RCW emitted from or which results from any new or modified stationary source, which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes and available methods, systems, and techniques, including fuel cleaning, clean fuels, or treatment or innovative fuel combustion techniques for control of each such pollutant. In no event shall application of the "best available control technology" result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard under 40 CFR Part 60 and Part 61. Emissions from any source utilizing clean fuels, or any other means, to comply with this paragraph shall not be allowed to increase above levels that would have been required under the definition of BACT in the Federal Clean Air Act as it existed prior to enactment of the Clean Air Act Amendments of 1990.

(13) **"Best available retrofit technology (BART)"** means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts

of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

(14) **"Bubble"** means a set of emission limits which allows an increase in emissions from a given emissions unit in exchange for a decrease in emissions from another emissions unit, pursuant to RCW 70.94.155 and WAC 173-400-120.

(15) **"Capacity factor"** means the ratio of the average load on equipment or a machine for the period of time considered, to the manufacturer's capacity rating of the machine or equipment.

(16) **"Class I area"** means any area designated under section 162 or 164 of the Federal Clean Air Act as a Class I area. The following areas are the Class I areas in Washington state:

- (a) Alpine Lakes Wilderness;
- (b) Glacier Peak Wilderness;
- (c) Goat Rocks Wilderness;
- (d) Mount Adams Wilderness;
- (e) Mount Rainier National Park;
- (f) North Cascades National Park;
- (g) Olympic National Park;
- (h) Pasayten Wilderness; and
- (i) Spokane Indian Reservation.

(17) **"Combustion and incineration units"** means units using combustion for waste disposal, steam production, chemical recovery or other process requirements; but excludes outdoor burning.

(18)(a) **"Commence"** as applied to construction, means that the owner or operator has all the necessary preconstruction approvals or permits and either has:

(i) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(ii) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(b) For the purposes of this definition, "necessary preconstruction approvals" means those permits or orders of approval required under federal air quality control laws and regulations, including state, local and federal regulations and orders contained in the SIP.

(19) **"Concealment"** means any action taken to reduce the observed or measured concentrations of a pollutant in a gaseous effluent while, in fact, not reducing the total amount of pollutant discharged.

(20) **"Criteria pollutant"** means a pollutant for which there is established a National Ambient Air Quality Standard at 40 CFR Part 50. The criteria pollutants are carbon monoxide (CO), particulate matter, ozone (O₃), sulfur dioxide (SO₂), lead (Pb), and nitrogen dioxide (NO₂).

(21) **"Director"** means director of the Washington state department of ecology or duly authorized representative.

(22) **"Dispersion technique"** means a method which attempts to affect the concentration of a pollutant in the ambi-

ent air other than by the use of pollution abatement equipment or integral process pollution controls.

(23) **"Ecology"** means the Washington state department of ecology.

(24) **"Emission"** means a release of air contaminants into the ambient air.

(25) **"Emission reduction credit (ERC)"** means a credit granted pursuant to WAC 173-400-131. This is a voluntary reduction in emissions.

(26) **"Emission standard"** and **"emission limitation"** means a requirement established under the Federal Clean Air Act or chapter 70.94 RCW which limits the quantity, rate, or concentration of emissions of air contaminants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction and any design, equipment work practice, or operational standard adopted under the Federal Clean Air Act or chapter 70.94 RCW.

(27) **"Emission threshold"** means an emission of a listed air contaminant at or above the following rates:

Air Contaminant	Annual Emission Rate
Carbon monoxide:	100 tons per year (tpy)
Nitrogen oxides:	40 tpy
Sulfur dioxide:	40 tpy
Particulate matter (PM):	25 tpy of PM emissions 15 tpy of PM-10 emissions
Volatile organic compounds:	40 tpy
Fluorides:	3 tpy
Lead:	0.6 tpy
Sulfuric acid mist:	7 tpy
Hydrogen sulfide (H ₂ S):	10 tpy
Total reduced sulfur (including H ₂ S):	10 tpy
Reduced sulfur compounds (including H ₂ S):	10 tpy

(28) **"Emissions unit"** or **"emission unit"** means any part of a stationary source or source which emits or would have the potential to emit any pollutant subject to regulation under the Federal Clean Air Act, chapter 70.94 or 70.98 RCW.

(29) **"Excess emissions"** means emissions of an air pollutant in excess of any applicable emission standard.

(30) **"Excess stack height"** means that portion of a stack which exceeds the greater of sixty-five meters or the calculated stack height described in WAC 173-400-200(2).

(31) **"Existing stationary facility (FACILITY)"** is defined in WAC 173-400-151.

(32) **"Federal Clean Air Act (FCAA)"** means the Federal Clean Air Act, also known as Public Law 88-206, 77 Stat. 392, December 17, 1963, 42 U.S.C. 7401 et seq., as last amended by the Clean Air Act Amendments of 1990, P.L. 101-549, November 15, 1990.

(33) **"Federal Class I area"** means any federal land that is classified or reclassified Class I. The following areas are federal Class I areas in Washington state:

- (a) Alpine Lakes Wilderness;
- (b) Glacier Peak Wilderness;
- (c) Goat Rocks Wilderness;

- (d) Mount Adams Wilderness;
- (e) Mount Rainier National Park;
- (f) North Cascades National Park;
- (g) Olympic National Park; and
- (h) Pasayten Wilderness.

(34) **"Federal land manager"** means the secretary of the department with authority over federal lands in the United States. This includes, but is not limited to, the U.S. Department of the Interior - National Park Service, the U.S. Department of the Interior - U.S. Fish and Wildlife Service, the U.S. Department of Agriculture - Forest Service, and/or the U.S. Department of the Interior - Bureau of Land Management.

(35) **"Federally enforceable"** means all limitations and conditions which are enforceable by EPA, including those requirements developed under 40 CFR Parts 60, 61, 62 and 63, requirements established within the Washington SIP, requirements within any approval or order established under 40 CFR 52.21 or under a SIP approved new source review regulation, and emissions limitation orders issued under WAC 173-400-091.

(36) **"Fossil fuel-fired steam generator"** means a device, furnace, or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.

(37) **"Fugitive dust"** means a particulate emission made airborne by forces of wind, man's activity, or both. Unpaved roads, construction sites, and tilled land are examples of areas that originate fugitive dust. Fugitive dust is a type of fugitive emission.

(38) **"Fugitive emissions"** means emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(39) **"General process unit"** means an emissions unit using a procedure or a combination of procedures for the purpose of causing a change in material by either chemical or physical means, excluding combustion.

(40) **"Good engineering practice (GEP)"** refers to a calculated stack height based on the equation specified in WAC 173-400-200 (2)(a)(ii).

(41) **"Incinerator"** means a furnace used primarily for the thermal destruction of waste.

(42) **"In operation"** means engaged in activity related to the primary design function of the source.

(43) **"Lowest achievable emission rate (LAER)"** means for any source that rate of emissions which reflects the more stringent of:

(a) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed new or modified source demonstrates that such limitations are not achievable; or

(b) The most stringent emission limitation which is achieved in practice by such class or category of source.

In no event shall the application of this term allow a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable New Source Performance Standards.

(44) **"Mandatory Class I federal area"** means any area defined in Section 162(a) of the Federal Clean Air Act. The following areas are the mandatory Class I federal areas in Washington state:

- (a) Alpine Lakes Wilderness;
- (b) Glacier Peak Wilderness;
- (c) Goat Rocks Wilderness;
- (d) Mount Adams Wilderness;
- (e) Mount Rainier National Park;
- (f) North Cascades National Park;
- (g) Olympic National Park; and
- (h) Pasayten Wilderness;

(45) **"Masking"** means the mixing of a chemically non-reactive control agent with a malodorous gaseous effluent to change the perceived odor.

(46) **"Materials handling"** means the handling, transporting, loading, unloading, storage, and transfer of materials with no significant chemical or physical alteration.

(47) **"Modification"** means any physical change in, or change in the method of operation of, a stationary source that increases the amount of any air contaminant emitted by such source or that results in the emissions of any air contaminant not previously emitted. The term modification shall be construed consistent with the definition of modification in Section 7411, Title 42, United States Code, and with rules implementing that section.

(48) **"National Ambient Air Quality Standard (NAAQS)"** means an ambient air quality standard set by EPA at 40 CFR Part 50 and includes standards for carbon monoxide (CO), particulate matter, ozone (O₃), sulfur dioxide (SO₂), lead (Pb), and nitrogen dioxide (NO₂).

(49) **"National Emission Standards for Hazardous Air Pollutants (NESHAPS)"** means the federal rules in 40 CFR Part 61.

(50) **"National Emission Standards for Hazardous Air Pollutants for Source Categories"** means the federal rules in 40 CFR Part 63.

(51) **"Natural conditions"** means naturally occurring phenomena that reduce visibility as measured in terms of light extinction, visual range, contrast, or coloration.

(52) **"New source"** means:

(a) The construction or modification of a stationary source that increases the amount of any air contaminant emitted by such source or that results in the emission of any air contaminant not previously emitted; and

(b) Any other project that constitutes a new source under the Federal Clean Air Act.

(53) **"New Source Performance Standards (NSPS)"** means the federal rules in 40 CFR Part 60.

(54) **"Nonattainment area"** means a geographic area designated by EPA at 40 CFR Part 81 as exceeding a National Ambient Air Quality Standard (NAAQS) for a given criteria pollutant. An area is nonattainment only for the pollutants for which the area has been designated nonattainment.

(55) **"Nonroad engine"** means:

(a) Except as discussed in (b) of this subsection, a non-road engine is any internal combustion engine:

(i) In or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers); or

(ii) In or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or

(iii) That, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indicia of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.

(b) An internal combustion engine is not a nonroad engine if:

(i) The engine is used to propel a motor vehicle or a vehicle used solely for competition, or is subject to standards promulgated under section 202 of the Federal Clean Air Act; or

(ii) The engine is regulated by a New Source Performance Standard promulgated under section 111 of the Federal Clean Air Act; or

(iii) The engine otherwise included in (a)(iii) of this subsection remains or will remain at a location for more than twelve consecutive months or a shorter period of time for an engine located at a seasonal source. A location is any single site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (i.e., at least two years) and that operates at that single location approximately three months (or more) each year. This paragraph does not apply to an engine after the engine is removed from the location.

(56) **"Notice of construction application"** means a written application to allow construction of a new source, modification of an existing stationary source or replacement or substantial alteration of control technology at an existing stationary source.

(57) **"Opacity"** means the degree to which an object seen through a plume is obscured, stated as a percentage.

(58) **"Outdoor burning"** means the combustion of material in an open fire or in an outdoor container, without providing for the control of combustion or the control of the emissions from the combustion. Wood waste disposal in wig-wam burners is not considered outdoor burning.

(59) **"Order"** means any order issued by ecology or a local air authority pursuant to chapter 70.94 RCW, including, but not limited to RCW 70.94.332, 70.94.152, 70.94.153, 70.94.154, and 70.94.141(3), and includes, where used in the generic sense, the terms order, corrective action order, order of approval, and regulatory order.

(60) **"Order of approval"** or **"approval order"** means a regulatory order issued by a permitting authority to approve the notice of construction application for a proposed new source or modification, or the replacement or substantial alteration of control technology at an existing stationary source.

(61) **"Ozone depleting substance"** means any substance listed in Appendices A and B to Subpart A of 40 CFR Part 82.

(62) **"Particulate matter"** or **"particulates"** means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

(63) **"Particulate matter emissions"** means all finely divided solid or liquid material, other than uncombined

water, emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method specified in Title 40, chapter I of the Code of Federal Regulations or by a test method specified in the SIP.

(64) **"Parts per million (ppm)"** means parts of a contaminant per million parts of gas, by volume, exclusive of water or particulates.

(65) **"Permitting authority"** means ecology or the local air pollution control authority with jurisdiction over the source.

(66) **"Person"** means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

(67) **"PM-10"** means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix J and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

(68) **"PM-10 emissions"** means finely divided solid or liquid material, including condensible particulate matter, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method, specified in Appendix M of 40 CFR Part 51 or by a test method specified in the SIP.

(69) **"Potential to emit"** means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a source.

(70) **"Prevention of significant deterioration (PSD)"** means the program in WAC 173-400-700 to 173-400-750.

(71) **"Projected width"** means that dimension of a structure determined from the frontal area of the structure, projected onto a plane perpendicular to a line between the center of the stack and the center of the building.

(72) **"Reasonably attributable"** means attributable by visual observation or any other technique the state deems appropriate.

(73) **"Reasonably available control technology (RACT)"** means the lowest emission limit that a particular source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual source or source category taking into account the impact of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality, and the capital and operating costs of the additional controls. RACT requirements for any source or source category shall be adopted only after notice and opportunity for comment are afforded.

(74) **"Regulatory order"** means an order issued by ecology or permitting authority to an air contaminant source

which applies to that source, any applicable provision of chapter 70.94 RCW, or the rules adopted thereunder, or, for sources regulated by a local air authority, the regulations of that authority.

(75) **"Secondary emissions"** means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the major stationary source or major modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(a) Emissions from ships or trains located at the new or modified major stationary source; and

(b) Emissions from any off-site support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.

(76) **"Source"** means all of the emissions unit(s) including quantifiable fugitive emissions, that are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control, whose activities are ancillary to the production of a single product or functionally related groups of products.

(77) **"Source category"** means all sources of the same type or classification.

(78) **"Stack"** means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct.

(79) **"Stack height"** means the height of an emission point measured from the ground-level elevation at the base of the stack.

(80) **"Standard conditions"** means a temperature of 20° (68° F) and a pressure of 760 mm (29.92 inches) of mercury.

(81) **"State implementation plan (SIP)"** or **"Washington SIP"** means the Washington SIP in 40 CFR Part 52, subpart WW. The SIP contains state, local and federal regulations and orders, the state plan and compliance schedules approved and promulgated by EPA, for the purpose of implementing, maintaining, and enforcing the National Ambient Air Quality Standards.

(82) **"Stationary source"** means any building, structure, facility, or installation which emits or may emit any air contaminant. This term does not include emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in Section 216(11) of the Federal Clean Air Act.

(83) **"Sulfuric acid plant"** means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge.

(84) **"Synthetic minor"** means any source whose potential to emit has been limited below applicable thresholds by means of a federally enforceable order, rule, or approval condition.

(85) **"Temporary source"** is a source of emissions (such as a nonroad engine) which is operated at a particular site for a limited period of time. A temporary source may or may not be a stationary source or a source as defined in subsections (78) and (83) of this section, respectively.

(86) **"Total reduced sulfur (TRS)"** means the sum of the sulfur compounds hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides emitted and measured by EPA method 16 in Appendix A to 40 CFR Part 60 or an approved equivalent method and expressed as hydrogen sulfide.

(87) **"Total suspended particulate"** means particulate matter as measured by the method described in 40 CFR Part 50 Appendix B.

(88) **"Toxic air pollutant (TAP)"** or **"toxic air contaminant"** means any Class A or B toxic air pollutant listed in WAC 173-460-150 and 173-460-160. The term toxic air pollutant may include particulate matter and volatile organic compounds if an individual substance or a group of substances within either of these classes is listed in WAC 173-460-150 and/or 173-460-160. The term toxic air pollutant does not include particulate matter and volatile organic compounds as generic classes of compounds.

(89) **"Unclassifiable area"** means an area that cannot be designated attainment or nonattainment on the basis of available information as meeting or not meeting the National Ambient Air Quality Standard for the criteria pollutant and that is listed by EPA at 40 CFR Part 81.

(90) **"United States Environmental Protection Agency (USEPA)"** shall be referred to as EPA.

(91) **"Visibility impairment"** means any humanly perceptible change in visibility (light extinction, visual range, contrast, or coloration) from that which would have existed under natural conditions.

(92) **"Volatile organic compound (VOC)"** means any carbon compound that participates in atmospheric photochemical reactions.

(a) Exceptions. The following compounds are not a VOC: Acetone; carbon monoxide; carbon dioxide; carbonic acid; metallic carbides or carbonates; ammonium carbonate; methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro 1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC-245ca); 1,1,2,3,3-pentafluoropropane (HFC-245ea); 1,1,1,2,3-pentafluoropropane (HFC-245eb); 1,1,1,3,3-pentafluoropropane (HFC-245fa); 1,1,1,2,3,3-hexafluoropropane (HFC-236ea); 1,1,1,3,3-pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1-chloro-1-fluoroethane (HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C₄F₉OCH₃); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CFCH₂OCH₃); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane((CF₃)₂CFCH₂OC₂H₅); methyl acetate and perfluorocarbon compounds that fall into these classes:

(i) Cyclic, branched, or linear completely fluorinated alkanes;

(ii) Cyclic, branched, or linear completely fluorinated ethers with no unsaturations;

(iii) Cyclic, branched, or linear completely fluorinated tertiary amines with no unsaturations; and

(iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(b) For the purpose of determining compliance with emission limits, VOC will be measured by the appropriate methods in 40 CFR Part 60 Appendix A. Where the method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOC if the amount of the compounds is accurately quantified, and the exclusion is approved by ecology, the authority, or EPA.

(c) As a precondition to excluding these negligibly-reactive compounds as VOC or at any time thereafter, ecology or the authority may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of ecology or the authority, the amount of negligibly-reactive compounds in the source's emissions.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-030, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-030, filed 8/15/01, effective 9/15/01. Statutory Authority: RCW 70.94.152. 98-01-183 (Order 96-01), § 173-400-030, filed 12/23/97, effective 1/23/98. Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), § 173-400-030, filed 9/13/96, effective 10/14/96; 95-07-126 (Order 93-40), § 173-400-030, filed 3/22/95, effective 4/22/95; 93-18-007 (Order 93-03), § 173-400-030, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-030, filed 2/19/91, effective 3/22/91. Statutory Authority: RCW 70.94.331, 70.94.395 and 70.94.510. 85-06-046 (Order 84-48), § 173-400-030, filed 3/6/85. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-030, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-030, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-030, filed 5/8/79; Order DE 76-38, § 173-400-030, filed 12/21/76. Formerly WAC 18-04-030.]

WAC 173-400-040 General standards for maximum emissions. All sources and emissions units are required to meet the emission standards of this chapter. Where an emission standard listed in another chapter is applicable to a specific emissions unit, such standard will take precedent over a general emission standard listed in this chapter. When two or more emissions units are connected to a common stack and the operator elects not to provide the means or facilities to sample emissions from the individual emissions units, and the relative contributions of the individual emissions units to the common discharge are not readily distinguishable, then the emissions of the common stack must meet the most restrictive standard of any of the connected emissions units. Further, all emissions units are required to use reasonably available control technology (RACT) which may be determined for some sources or source categories to be more strin-

gent than the applicable emission limitations of any chapter of Title 173 WAC. Where current controls are determined to be less than RACT, ecology or the authority shall, as provided in RCW 70.194.154 [RCW 70.94.154], define RACT for each source or source category and issue a rule or regulatory order requiring the installation of RACT.

(1) **Visible emissions.** No person shall cause or allow the emission for more than three minutes, in any one hour, of an air contaminant from any emissions unit which at the emission point, or within a reasonable distance of the emission point, exceeds twenty percent opacity except:

(a) When the emissions occur due to soot blowing/grate cleaning and the operator can demonstrate that the emissions will not exceed twenty percent opacity for more than fifteen minutes in any eight consecutive hours. The intent of this provision is to allow the soot blowing and grate cleaning necessary to the operation of boiler facilities. This practice, except for testing and trouble shooting, is to be scheduled for the same approximate times each day and ecology or the authority be advised of the schedule.

(b) When the owner or operator of a source supplies valid data to show that the presence of uncombined water is the only reason for the opacity to exceed twenty percent.

(c) When two or more emission units are connected to a common stack, ecology or the authority may allow or require the use of an alternate time period if it is more representative of normal operations.

(d) When an alternate opacity limit has been established per RCW 70.94.331 (2)(c).

(e) Exemptions from twenty percent opacity standard.

(i) Visible emissions reader certification testing. Visible emissions from the "smoke generator" used for testing and certification of visible emissions readers per the requirements of 40 CFR Part 60, Appendix A, Reference Method 9 and ecology methods 9A and 9B shall be exempt from compliance with the twenty percent opacity limitation while being used for certifying visible emission readers.

(ii) Visible emissions resulting from military obscurant training exercises is exempt from compliance with the twenty percent opacity limitation provided the following criteria are met:

(A) No visible emissions shall cross the boundary of the military training site/reservation.

(B) The operation shall have in place methods, which have been reviewed and approved by the permitting authority, to detect changes in weather that would cause the obscurant to cross the site boundary either during the course of the exercise or prior to the start of the exercise. The approved methods shall include provisions that result in cancellation of the training exercise, cease the use of obscurants during the exercise until weather conditions would allow such training to occur without causing obscurant to leave the site boundary of the military site/reservation.

(iii) Visible emissions from fixed and mobile fire fighter training facilities while being used to train fire fighters and while complying with the requirements of chapter 173-425 WAC.

(2) **Fallout.** No person shall cause or allow the emission of particulate matter from any source to be deposited beyond the property under direct control of the owner or operator of the source in sufficient quantity to interfere unreasonably

with the use and enjoyment of the property upon which the material is deposited.

(3) **Fugitive emissions.** The owner or operator of any emissions unit engaging in materials handling, construction, demolition or other operation which is a source of fugitive emission:

(a) If located in an attainment area and not impacting any nonattainment area, shall take reasonable precautions to prevent the release of air contaminants from the operation.

(b) If the emissions unit has been identified as a significant contributor to the nonattainment status of a designated nonattainment area, the owner or operator shall be required to use reasonable and available control methods, which shall include any necessary changes in technology, process, or other control strategies to control emissions of the air contaminants for which nonattainment has been designated.

(4) **Odors.** Any person who shall cause or allow the generation of any odor from any source which may unreasonably interfere with any other property owner's use and enjoyment of his property must use recognized good practice and procedures to reduce these odors to a reasonable minimum.

(5) **Emissions detrimental to persons or property.** No person shall cause or allow the emission of any air contaminant from any source if it is detrimental to the health, safety, or welfare of any person, or causes damage to property or business.

(6) **Sulfur dioxide.**

No person shall cause or allow the emission of a gas containing sulfur dioxide from any emissions unit in excess of one thousand ppm of sulfur dioxide on a dry basis, corrected to seven percent oxygen for combustion sources, and based on the average of any period of sixty consecutive minutes, except:

When the owner or operator of an emissions unit supplies emission data and can demonstrate to ecology or the authority that there is no feasible method of reducing the concentration to less than one thousand ppm (on a dry basis, corrected to seven percent oxygen for combustion sources) and that the state and federal ambient air quality standards for sulfur dioxide will not be exceeded. In such cases, ecology or the authority may require specific ambient air monitoring stations be established, operated, and maintained by the owner or operator at mutually approved locations. All sampling results will be made available upon request and a monthly summary will be submitted to ecology or the authority.

(7) **Concealment and masking.** No person shall cause or allow the installation or use of any means which conceals or masks an emission of an air contaminant which would otherwise violate any provisions of this chapter.

(8) **Fugitive dust.**

(a) The owner or operator of a source of fugitive dust shall take reasonable precautions to prevent fugitive dust from becoming airborne and shall maintain and operate the source to minimize emissions.

(b) The owner or operator of any existing source of fugitive dust that has been identified as a significant contributor to a PM-10 nonattainment area shall be required to use reasonably available control technology to control emissions. Significance will be determined by the criteria found in WAC 173-400-113 (2)(c).

[Statutory Authority: RCW 70.94.152, 05-03-033 (Order 03-07), § 173-400-040, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080, 01-17-062 (Order 99-06), § 173-400-040, filed 8/15/01, effective 9/15/01. Statutory Authority: [RCW 70.94.331, 70.94.510 and chapter 70.94 RCW.] 00-23-130 (Order 98-27), § 173-400-040, filed 11/22/00, effective 12/23/00. Statutory Authority: Chapter 70.94 RCW, 93-18-007 (Order 93-03), § 173-400-040, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-040, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 43.21A and 70.94 RCW, 83-09-036 (Order DE 83-13), § 173-400-040, filed 4/15/83. Statutory Authority: RCW 70.94.331, 80-11-059 (Order DE 80-14), § 173-400-040, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331, 79-06-012 (Order DE 78-21), § 173-400-040, filed 5/8/79; Order DE 76-38, § 173-400-040, filed 12/21/76. Formerly WAC 18-04-040.]

WAC 173-400-050 Emission standards for combustion and incineration units. (1) Combustion and incineration emissions units must meet all requirements of WAC 173-400-040 and, in addition, no person shall cause or allow emissions of particulate matter in excess of 0.23 gram per dry cubic meter at standard conditions (0.1 grain/dscf), except, for an emissions unit combusting wood derived fuels for the production of steam. No person shall allow the emission of particulate matter in excess of 0.46 gram per dry cubic meter at standard conditions (0.2 grain/dscf), as measured by EPA method 5 in Appendix A to 40 CFR Part 60, (in effect on July 1, 2004) or approved procedures contained in "*Source Test Manual - Procedures For Compliance Testing*," state of Washington, department of ecology, as of July 12, 1990, on file at ecology.

(2) For any incinerator, no person shall cause or allow emissions in excess of one hundred ppm of total carbonyls as measured by Source Test Method 14 procedures contained in "*Source Test Manual - Procedures for Compliance Testing*," state of Washington, department of ecology, as of July 12, 1990, on file at ecology. An applicable EPA reference method or other procedures to collect and analyze for the same compounds collected in the ecology method may be used if approved by the permitting authority or ecology prior to its use.

(a) **Incinerators** not subject to the requirements of chapter 173-434 WAC or WAC 173-400-050 (4) or (5), or requirements adopted by reference in WAC 173-400-075 (40 CFR 63 subpart EEE) and WAC 173-400-115 (40 CFR 60 subparts E, Ea, Eb, Ec, AAAA, and CCCC) shall be operated only during daylight hours unless written permission to operate at other times is received from the permitting authority.

(b) Total carbonyls means the concentration of organic compounds containing the =C=O radical as collected by the Ecology Source Test Method 14 contained in "*Source Test Manual - Procedures For Compliance Testing*," state of Washington, department of ecology, as of July 12, 1990, on file at ecology.

(3) Measured concentrations for combustion and incineration units shall be adjusted for volumes corrected to seven percent oxygen, except when ecology or the authority determines that an alternate oxygen correction factor is more representative of normal operations.

(4) **Commercial and industrial solid waste incineration units** constructed on or before November 30, 1999. (See WAC 173-400-115(2) for the requirements for a commercial and industrial solid waste incineration unit constructed after

November 30, 1999, or modified or reconstructed after June 1, 2001.)

(a) Definitions.

(i) **"Commercial and industrial solid waste incineration (CISWI) unit"** means any combustion device that combusts commercial and industrial waste, as defined in this subsection. The boundaries of a CISWI unit are defined as, but not limited to, the commercial or industrial solid waste fuel feed system, grate system, flue gas system, and bottom ash. The CISWI unit does not include air pollution control equipment or the stack. The CISWI unit boundary starts at the commercial and industrial solid waste hopper (if applicable) and extends through two areas: (A) The combustion unit flue gas system, which ends immediately after the last combustion chamber. (B) The combustion unit bottom ash system, which ends at the truck loading station or similar equipment that transfers the ash to final disposal. It includes all ash handling systems connected to the bottom ash handling system.

(ii) **"Commercial and industrial solid waste"** means solid waste combusted in an enclosed device using controlled flame combustion without energy recovery that is a distinct operating unit of any commercial or industrial facility (including field erected, modular, and custom built incineration units operating with starved or excess air), or solid waste combusted in an air curtain incinerator without energy recovery that is a distinct operating unit of any commercial or industrial facility.

(b) Applicability. This section applies to incineration units that meet all three criteria:

(i) The incineration unit meets the definition of CISWI unit in this subsection.

(ii) The incineration unit commenced construction on or before November 30, 1999.

(iii) The incineration unit is not exempt under (c) of this subsection.

(c) The following types of incineration units are exempt from this subsection:

(i) **Pathological waste incineration units.** Incineration units burning 90 percent or more by weight (on a calendar quarter basis and excluding the weight of auxiliary fuel and combustion air) of pathological waste, low-level radioactive waste, and/or chemotherapeutic waste as defined in 40 CFR 60.2265 (in effect on January 30, 2001) are not subject to this section if you meet the two requirements specified in (c)(i)(A) and (B) of this subsection.

(A) Notify the permitting authority that the unit meets these criteria.

(B) Keep records on a calendar quarter basis of the weight of pathological waste, low-level radioactive waste, and/or chemotherapeutic waste burned, and the weight of all other fuels and wastes burned in the unit.

(ii) **Agricultural waste incineration units.** Incineration units burning 90 percent or more by weight (on a calendar quarter basis and excluding the weight of auxiliary fuel and combustion air) of agricultural wastes as defined in 40 CFR 60.2265 (in effect on January 30, 2001) are not subject to this subpart if you meet the two requirements specified in (c)(ii)(A) and (B) of this subsection.

(A) Notify the permitting authority that the unit meets these criteria.

(B) Keep records on a calendar quarter basis of the weight of agricultural waste burned, and the weight of all other fuels and wastes burned in the unit.

(iii) *Municipal waste combustion units.* Incineration units that meet either of the two criteria specified in (c)(iii)(A) and (B) of this subsection.

(A) Units are regulated under 40 CFR Part 60, subpart Ea or subpart Eb (in effect on July 1, 2000); Spokane County Air Pollution Control Authority Regulation 1, Section 6.17 (in effect on February 13, 1999); 40 CFR Part 60, subpart AAAA (adopted on December 6, 2000 and in effect on June 1, 2001); or WAC 173-400-050(5).

(B) Units burn greater than 30 percent municipal solid waste or refuse-derived fuel, as defined in 40 CFR Part 60, subparts Ea (in effect on July 1, 2000), Eb (in effect on July 1, 2000), and AAAA (adopted on December 6, 2000 and in effect on June 1, 2001), and WAC 173-400-050(5), and that have the capacity to burn less than 35 tons (32 megagrams) per day of municipal solid waste or refuse-derived fuel, if you meet the two requirements in (c)(iii)(B)(I) and (II) of this subsection.

(I) Notify the permitting authority that the unit meets these criteria.

(II) Keep records on a calendar quarter basis of the weight of municipal solid waste burned, and the weight of all other fuels and wastes burned in the unit.

(iv) *Medical waste incineration units.* Incineration units regulated under 40 CFR Part 60, subpart Ec (Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996) (in effect on July 1, 2000);

(v) *Small power production facilities.* Units that meet the three requirements specified in (c)(v)(A) through (C) of this subsection.

(A) The unit qualifies as a small power-production facility under section 3 (17)(C) of the Federal Power Act (16 U.S.C. 796 (17)(C)).

(B) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity.

(C) You notify the permitting authority that the unit meets all of these criteria.

(vi) *Cogeneration facilities.* Units that meet the three requirements specified in (c)(vi)(A) through (C) of this subsection.

(A) The unit qualifies as a cogeneration facility under section 3 (18)(B) of the Federal Power Act (16 U.S.C. 796 (18)(B)).

(B) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity and steam or other forms of energy used for industrial, commercial, heating, or cooling purposes.

(C) You notify the permitting authority that the unit meets all of these criteria.

(vii) *Hazardous waste combustion units.* Units that meet either of the two criteria specified in (c)(vii)(A) or (B) of this subsection.

(A) Units for which you are required to get a permit under section 3005 of the Solid Waste Disposal Act.

(B) Units regulated under subpart EEE of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollut-

ants from Hazardous Waste Combustors) (in effect on July 1, 2000).

(viii) *Materials recovery units.* Units that combust waste for the primary purpose of recovering metals, such as primary and secondary smelters;

(ix) *Air curtain incinerators.* Air curtain incinerators that burn only the materials listed in (c)(ix)(A) through (C) of this subsection are only required to meet the requirements under "Air Curtain Incinerators" in 40 CFR 60.2245 through 60.2260 (in effect on January 30, 2001).

(A) 100 percent wood waste.

(B) 100 percent clean lumber.

(C) 100 percent mixture of only wood waste, clean lumber, and/or yard waste.

(x) *Cyclonic barrel burners.* See 40 CFR 60.2265 (in effect on January 30, 2001).

(xi) *Rack, part, and drum reclamation units.* See 40 CFR 60.2265 (in effect on January 30, 2001).

(xii) *Cement kilns.* Kilns regulated under subpart LLL of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry) (in effect on July 1, 2000).

(xiii) *Sewage sludge incinerators.* Incineration units regulated under 40 CFR Part 60, (Standards of Performance for Sewage Treatment Plants) (in effect on July 1, 2000).

(xiv) *Chemical recovery units.* Combustion units burning materials to recover chemical constituents or to produce chemical compounds where there is an existing commercial market for such recovered chemical constituents or compounds. The seven types of units described in (c)(xiv)(A) through (H) of this subsection are considered chemical recovery units.

(A) Units burning only pulping liquors (i.e., black liquor) that are reclaimed in a pulping liquor recovery process and reused in the pulping process.

(B) Units burning only spent sulfuric acid used to produce virgin sulfuric acid.

(C) Units burning only wood or coal feedstock for the production of charcoal.

(D) Units burning only manufacturing by-product streams/residues containing catalyst metals which are reclaimed and reused as catalysts or used to produce commercial grade catalysts.

(E) Units burning only coke to produce purified carbon monoxide that is used as an intermediate in the production of other chemical compounds.

(F) Units burning only hydrocarbon liquids or solids to produce hydrogen, carbon monoxide, synthesis gas, or other gases for use in other manufacturing processes.

(G) Units burning only photographic film to recover silver.

(xv) *Laboratory analysis units.* Units that burn samples of materials for the purpose of chemical or physical analysis.

(d) Exceptions.

(i) Physical or operational changes to a CISWI unit made primarily to comply with this section do not qualify as a "modification" or "reconstruction" (as defined in 40 CFR 60.2815, in effect on January 30, 2001).

(ii) Changes to a CISWI unit made on or after June 1, 2001, that meet the definition of "modification" or "reconstruction" as defined in 40 CFR 60.2815 (in effect on January

30, 2001) mean the CISWI unit is considered a new unit and subject to WAC 173-400-115(2), which adopts 40 CFR Part 60, subpart CCCC by reference.

(e) A CISWI unit must comply with 40 CFR 60.2575 through 60.2875, in effect on January 30, 2001, which is adopted by reference. The federal rule contains these major components:

- Increments of progress towards compliance in 60.2575 through 60.2630;
- Waste management plan requirements in 60.2620 through 60.2630;
- Operator training and qualification requirements in 60.2635 through 60.2665;
- Emission limitations and operating limits in 60.2670 through 60.2685;
- Performance testing requirements in 60.2690 through 60.2725;
- Initial compliance requirements in 60.2700 through 60.2725;
- Continuous compliance requirements in 60.2710 through 60.2725;
- Monitoring requirements in 60.2730 through 60.2735;
- Recordkeeping and reporting requirements in 60.2740 through 60.2800;
- Title V operating permits requirements in 60.2805;
- Air curtain incinerator requirements in 60.2810 through 60.2870;
- Definitions in 60.2875; and
- Tables in 60.2875. In Table 1, the final control plan must be submitted before June 1, 2004, and final compliance must be achieved by June 1, 2005.

(i) Exception to adopting the federal rule. For purposes of this section, "administrator" includes the permitting authority.

(ii) Exception to adopting the federal rule. For purposes of this section, "you" means the owner or operator.

(iii) Exception to adopting the federal rule. For purposes of this section, each reference to "the effective date of state plan approval" means July 1, 2002.

(iv) Exception to adopting the federal rule. The Title V operating permit requirements in 40 CFR 2805(a) are not adopted by reference. Each CISWI unit, regardless of whether it is a major or nonmajor unit, is subject to the air operating permit regulation, chapter 173-401 WAC, beginning on July 1, 2002. See WAC 173-401-500 for the permit application requirements and deadlines.

(v) Exception to adopting the federal rule. The following compliance dates apply:

(A) The final control plan (Increment 1) must be submitted no later than July 1, 2003. (See Increment 1 in Table 1.)

(B) Final compliance (Increment 2) must be achieved no later than July 1, 2005. (See Increment 2 in Table 1.)

(5) **Small municipal waste combustion units** constructed on or before August 30, 1999. (See WAC 173-400-115(2) for the requirements for a municipal waste combustion unit constructed after August 30, 1999, or reconstructed or modified after June 6, 2001.)

(a) Definition. "Municipal waste combustion unit" means any setting or equipment that combusts, liquid, or gasified municipal solid waste including, but not limited to, field-erected combustion units (with or without heat recovery),

modular combustion units (starved air- or excess-air), boilers (for example, steam generating units), furnaces (whether suspension-fired, grate-fired, mass-fired, air-curtain incinerators, or fluidized bed-fired), and pyrolysis/combustion units. Two criteria further define municipal waste combustion units:

(i) Municipal waste combustion units do not include the following units:

(A) Pyrolysis or combustion units located at a plastics or rubber recycling unit as specified under the exemptions in (d)(viii) and (ix) of this subsection.

(B) Cement kilns that combust municipal solid waste as specified under the exemptions in (d)(x) of this subsection.

(C) Internal combustion engines, gas turbines, or other combustion devices that combust landfill gases collected by landfill gas collection systems.

(ii) The boundaries of a municipal waste combustion unit are defined as follows. The municipal waste combustion unit includes, but is not limited to, the municipal solid waste fuel feed system, grate system, flue gas system, bottom ash system, and the combustion unit water system. The municipal waste combustion unit does not include air pollution control equipment, the stack, water treatment equipment, or the turbine-generator set. The municipal waste combustion unit boundary starts at the municipal solid waste pit or hopper and extends through three areas:

(A) The combustion unit flue gas system, which ends immediately after the heat recovery equipment or, if there is no heat recovery equipment, immediately after the combustion chamber.

(B) The combustion unit bottom ash system, which ends at the truck loading station or similar equipment that transfers the ash to final disposal. It includes all ash handling systems connected to the bottom ash handling system.

(C) The combustion unit water system, which starts at the feed water pump and ends at the piping that exits the steam drum or superheater.

(b) Applicability. This section applies to a municipal waste combustion unit that meets these three criteria:

(i) The municipal waste combustion unit has the capacity to combust at least 35 tons per day of municipal solid waste but no more than 250 tons per day of municipal solid waste or refuse-derived fuel.

(ii) The municipal waste combustion unit commenced construction on or before August 30, 1999.

(iii) The municipal waste combustion unit is not exempt under (c) of this section.

(c) Exempted units. The following municipal waste combustion units are exempt from the requirements of this section:

(i) *Small municipal waste combustion units that combust less than 11 tons per day.* Units are exempt from this section if four requirements are met:

(A) The municipal waste combustion unit is subject to a federally enforceable order or order of approval limiting the amount of municipal solid waste combusted to less than 11 tons per day.

(B) The owner or operator notifies the permitting authority that the unit qualifies for the exemption.

(C) The owner or operator of the unit sends a copy of the federally enforceable order or order of approval to the permitting authority.

(D) The owner or operator of the unit keeps daily records of the amount of municipal solid waste combusted.

(ii) *Small power production units.* Units are exempt from this section if four requirements are met:

(A) The unit qualifies as a small power production facility under section 3 (17)(C) of the Federal Power Act (16 U.S.C. 796 (17)(C)).

(B) The unit combusts homogeneous waste (excluding refuse-derived fuel) to produce electricity.

(C) The owner or operator notifies the permitting authority that the unit qualifies for the exemption.

(D) The owner or operator submits documentation to the permitting authority that the unit qualifies for the exemption.

(iii) *Cogeneration units.* Units are exempt from this section if four requirements are met:

(A) The unit qualifies as a small power production facility under section 3 (18)(C) of the Federal Power Act (16 U.S.C. 796 (18)(C)).

(B) The unit combusts homogeneous waste (excluding refuse-derived fuel) to produce electricity and steam or other forms of energy used for industrial, commercial, heating, or cooling purposes.

(C) The owner or operator notifies the permitting authority that the unit qualifies for the exemption.

(D) The owner or operator submits documentation to the permitting authority that the unit qualifies for the exemption.

(iv) *Municipal waste combustion units that combust only tires.* Units are exempt from this section if three requirements are met:

(A) The municipal waste combustion unit combusts a single-item waste stream of tires and no other municipal waste (the unit can cofire coal, fuel oil, natural gas, or other nonmunicipal solid waste).

(B) The owner or operator notifies the permitting authority that the unit qualifies for the exemption.

(C) The owner or operator submits documentation to the permitting authority that the unit qualifies for the exemption.

(v) *Hazardous waste combustion units.* Units are exempt from this section if the units have received a permit under section 3005 of the Solid Waste Disposal Act.

(vi) *Materials recovery units.* Units are exempt from this section if the units combust waste mainly to recover metals. Primary and secondary smelters may qualify for the exemption.

(vii) *Cofired units.* Units are exempt from this section if four requirements are met:

(A) The unit has a federally enforceable order or order of approval limiting municipal solid waste combustion to no more than 30 percent of total fuel input by weight.

(B) The owner or operator notifies the permitting authority that the unit qualifies for the exemption.

(C) The owner or operator submits a copy of the federally enforceable order or order of approval to the permitting authority.

(D) The owner or operator records the weights, each quarter, of municipal solid waste and of all other fuels combusted.

(viii) *Plastics/rubber recycling units.* Units are exempt from this section if four requirements are met:

(A) The pyrolysis/combustion unit is an integrated part of a plastics/rubber recycling unit as defined in 40 CFR 60.1940 (in effect on February 5, 2001).

(B) The owner or operator of the unit records the weight, each quarter, of plastics, rubber, and rubber tires processed.

(C) The owner or operator of the unit records the weight, each quarter, of feed stocks produced and marketed from chemical plants and petroleum refineries.

(D) The owner or operator of the unit keeps the name and address of the purchaser of the feed stocks.

(ix) *Units that combust fuels made from products of plastics/rubber recycling plants.* Units are exempt from this section if two requirements are met:

(A) The unit combusts gasoline, diesel fuel, jet fuel, fuel oils, residual oil, refinery gas, petroleum coke, liquified petroleum gas, propane, or butane produced by chemical plants or petroleum refineries that use feed stocks produced by plastics/rubber recycling units.

(B) The unit does not combust any other municipal solid waste.

(x) *Cement kilns.* Cement kilns that combust municipal solid waste are exempt.

(xi) *Air curtain incinerators.* If an air curtain incinerator as defined under 40 CFR 60.1910 (in effect on February 5, 2001) combusts 100 percent yard waste, then those units must only meet the requirements under 40 CFR 60.1910 through 60.1930 (in effect on February 5, 2001).

(d) Exceptions.

(i) Physical or operational changes to an existing municipal waste combustion unit made primarily to comply with this section do not qualify as a modification or reconstruction, as those terms are defined in 40 CFR 60.1940 (in effect on February 5, 2001).

(ii) Changes to an existing municipal waste combustion unit made on or after June 6, 2001, that meet the definition of modification or reconstruction, as those terms are defined in 40 CFR 60.1940 (in effect on February 5, 2001), mean the unit is considered a new unit and subject to WAC 173-400-115(2), which adopts 40 CFR Part 60, subpart AAAA (in effect on June 6, 2001).

(e) Municipal waste combustion units are divided into two subcategories based on the aggregate capacity of the municipal waste combustion plant as follows:

(i) Class I units. Class I units are small municipal waste combustion units that are located at municipal waste combustion plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. See the definition of "municipal waste combustion plant capacity" in 40 CFR 60.1940 (in effect on February 5, 2001) for the specification of which units are included in the aggregate capacity calculation.

(ii) Class II units. Class II units are small municipal waste combustion units that are located at municipal waste combustion plants with an aggregate plant combustion capacity less than or equal to 250 tons per day of municipal solid waste. See the definition of "municipal waste combustion plant capacity" in 40 CFR 60.1940 (in effect on February 5, 2001) for the specification of which units are included in the aggregate capacity calculation.

(f) Compliance option 1.

(i) A municipal solid waste combustion unit may choose to reduce, by the final compliance date of June 1, 2005, the maximum combustion capacity of the unit to less than 35 tons per day of municipal solid waste. The owner or operator must submit a final control plan and the notifications of achievement of increments of progress as specified in 40 CFR 60.1610 (in effect on February 5, 2001).

(ii) The final control plan must, at a minimum, include two items:

(A) A description of the physical changes that will be made to accomplish the reduction.

(B) Calculations of the current maximum combustion capacity and the planned maximum combustion capacity after the reduction. Use the equations specified in 40 CFR 60.1935 (d) and (e) (in effect on February 5, 2001) to calculate the combustion capacity of a municipal waste combustion unit.

(iii) An order or order of approval containing a restriction or a change in the method of operation does not qualify as a reduction in capacity. Use the equations specified in 40 CFR 60.1935 (d) and (e) (in effect on February 5, 2001) to calculate the combustion capacity of a municipal waste combustion unit.

(g) Compliance option 2. The municipal waste combustion unit must comply with 40 CFR 60.1585 through 60.1905, and 60.1935 (in effect on February 5, 2001), which is adopted by reference.

(i) The rule contains these major components:

(A) Increments of progress towards compliance in 60.1585 through 60.1640;

(B) Good combustion practices - operator training in 60.1645 through 60.1670;

(C) Good combustion practices - operator certification in 60.1675 through 60.1685;

(D) Good combustion practices - operating requirements in 60.1690 through 60.1695;

(E) Emission limits in 60.1700 through 60.1710;

(F) Continuous emission monitoring in 60.1715 through 60.1770;

(G) Stack testing in 60.1775 through 60.1800;

(H) Other monitoring requirements in 60.1805 through 60.1825;

(I) Recordkeeping reporting in 60.1830 through 60.1855;

(J) Reporting in 60.1860 through 60.1905;

(K) Equations in 60.1935;

(L) Tables 2 through 8.

(ii) Exception to adopting the federal rule. For purposes of this section, each reference to the following is amended in the following manner:

(A) "State plan" in the federal rule means WAC 173-400-050(5).

(B) "You" in the federal rule means the owner or operator.

(C) "Administrator" includes the permitting authority.

(D) Table 1 in (h)(ii) of this subsection substitutes for Table 1 in the federal rule.

(E) "The effective date of the state plan approval" in the federal rule means December 6, 2002.

(h) Compliance schedule.

(i) Small municipal waste combustion units must achieve final compliance or cease operation not later than December 1, 2005.

(ii) Small municipal waste combustion units must comply with Table 1.

Table 1 Compliance Schedules and Increments of Progress

Affected units	Increment 1 (Submit final control plan)	Increment 2 (Award contracts)	Increment 3 (Begin on-site construction)	Increment 4 (Complete on-site construction)	Increment 5 (Final compliance)
All Class I units	August 6, 2003	April 6, 2004	October 6, 2004	October 6, 2005	November 6, 2005
All Class II units	September 6, 2003	Not applicable	Not applicable	Not applicable	May 6, 2005

(iii) Class I units must comply with these additional requirements:

(A) The owner or operator must submit the dioxins/furans stack test results for at least one test conducted during or after 1990. The stack test must have been conducted according to the procedures specified under 40 CFR 60.1790 (in effect on February 5, 2001).

(B) Class I units that commenced construction after June 26, 1987, must comply with the dioxins/furans and mercury limits specified in Tables 2 and 3 in 40 CFR Part 60, subpart BBBB (in effect on February 5, 2001) by the later of two dates:

(I) December 6, 2003; or

(II) One year following the issuance of an order of approval (revised construction approval or operation permit) if an order or order of approval or operation modification is required.

(i) Air operating permit. Applicability to chapter 173-401 WAC, the air operating permit regulation, begins on July 1, 2002. See WAC 173-401-500 for the permit application requirements and deadlines.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-050, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-050, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), § 173-400-050, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-050, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-050, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-050, filed 5/8/79; Order DE 76-38, § 173-400-050, filed 12/21/76. Formerly WAC 18-04-050.]

WAC 173-400-060 Emission standards for general process units. General process units are required to meet all applicable provisions of WAC 173-400-040 and, no person shall cause or allow the emission of particulate material from any general process operation in excess of 0.23 grams per dry cubic meter at standard conditions (0.1 grain/dscf) of exhaust gas. EPA test methods (in effect on February 20, 2001) from 40 CFR Parts 51, 60, 61, and 63 and any other approved test procedures which are contained in ecology's "Source Test

Manual - Procedures For Compliance Testing" as of July 12, 1990, will be used to determine compliance.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-060, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.152, [70.94.1331, [70.94.1510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-060, filed 8/15/01, effective 9/15/01. Statutory Authority: [RCW 70.94.331, 70.94.510 and chapter 70.94 RCW.] 00-23-130 (Order 98-27), § 173-400-060, filed 11/22/00, effective 12/23/00. Statutory Authority: RCW 70.94.860, 70.94.510 and 70.94.331. 98-15-129 (Order 98-04), § 173-400-060, filed 7/21/98, effective 8/21/98. Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), § 173-400-060, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-060, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-060, filed 8/20/80; Order DE 76-38, § 173-400-060, filed 12/21/76. Formerly WAC 18-04-060.]

WAC 173-400-070 Emission standards for certain source categories. Ecology finds that the reasonable regulation of sources within certain categories requires separate standards applicable to such categories. The standards set forth in this section shall be the maximum allowable standards for emissions units within the categories listed. Except as specifically provided in this section, such emissions units shall not be required to meet the provisions of WAC 173-400-040, 173-400-050 and 173-400-060.

(1) Wigwam burners.

(a) All wigwam burners shall meet all provisions of WAC 173-400-040 (2), (3), (4), (5), (6), (7), and WAC 173-400-050(4) or 173-400-115 (40 CFR 60 subpart DDDD) as applicable.

(b) All wigwam burners shall use RACT. All emissions units shall be operated and maintained to minimize emissions. These requirements may include a controlled tangential vent overfire air system, an adequate underfire system, elimination of all unnecessary openings, a controlled feed and other modifications determined necessary by ecology or the permitting authority.

(c) It shall be unlawful to install or increase the existing use of any burner that does not meet all requirements for new sources including those requirements specified in WAC 173-400-040 and 173-400-050, except operating hours.

(d) Ecology may establish additional requirements for wigwam burners located in sensitive areas as defined by chapter 173-440 WAC. These requirements may include but shall not be limited to:

(i) A requirement to meet all provisions of WAC 173-400-040 and 173-400-050. Wigwam burners will be considered to be in compliance if they meet the requirements contained in WAC 173-400-040(1). An exception is made for a startup period not to exceed thirty minutes in any eight consecutive hours.

(ii) A requirement to apply BACT.

(iii) A requirement to reduce or eliminate emissions if ecology establishes that such emissions unreasonably interfere with the use and enjoyment of the property of others or are a cause of violation of ambient air standards.

(2) Hog fuel boilers.

(a) Hog fuel boilers shall meet all provisions of WAC 173-400-040 and 173-400-050(1), except that emissions may exceed twenty percent opacity for up to fifteen consecutive minutes once in any eight hours. The intent of this provision is to allow soot blowing and grate cleaning necessary to the

operation of these units. This practice is to be scheduled for the same specific times each day and the permitting authority shall be notified of the schedule or any changes.

(b) All hog fuel boilers shall utilize RACT and shall be operated and maintained to minimize emissions.

(3) Orchard heating.

(a) Burning of rubber materials, asphaltic products, crankcase oil or petroleum wastes, plastic, or garbage is prohibited.

(b) It is unlawful to burn any material or operate any orchard-heating device that causes a visible emission exceeding twenty percent opacity, except during the first thirty minutes after such device or material is ignited.

(4) Grain elevators.

Any grain elevator which is primarily classified as a materials handling operation shall meet all the provisions of WAC 173-400-040 (2), (3), (4), and (5).

(5) Catalytic cracking units.

(a) All existing catalytic cracking units shall meet all provisions of WAC 173-400-040 (2), (3), (4), (5), (6), and (7) and:

(i) No person shall cause or allow the emission for more than three minutes, in any one hour, of an air contaminant from any catalytic cracking unit which at the emission point, or within a reasonable distance of the emission point, exceeds forty percent opacity.

(ii) No person shall cause or allow the emission of particulate material in excess of 0.46 grams per dry cubic meter at standard conditions (0.20 grains/dscf) of exhaust gas.

(b) All new catalytic cracking units shall meet all provisions of WAC 173-400-115.

(6) Other wood waste burners.

(a) Wood waste burners not specifically provided for in this section shall meet all applicable provisions of WAC 173-400-040. In addition, wood waste burners subject to WAC 173-400-050(4) or 173-400-115 (40 CFR 60 subpart DDDD) must meet all applicable provisions of those sections.

(b) Such wood waste burners shall utilize RACT and shall be operated and maintained to minimize emissions.

(7) Sulfuric acid plants.

No person shall cause to be discharged into the atmosphere from a sulfuric acid plant, any gases which contain acid mist, expressed as H₂SO₄, in excess of 0.15 pounds per ton of acid produced. Sulfuric acid production shall be expressed as one hundred percent H₂SO₄.

(8) **Sewage sludge incinerators.** Standards for the incineration of sewage sludge found in 40 CFR Part 503 subparts A (General Provisions) and E (Incineration) in effect on July 1, 2004, are adopted by reference.

(9) **Municipal solid waste landfills constructed, reconstructed, or modified before May 30, 1991.** A municipal solid waste landfill (MSW landfill) is an entire disposal facility in a contiguous geographical space where household waste is placed in or on the land. A MSW landfill may also receive other types of waste regulated under Subtitle D of the Federal Resource Conservation and Recovery Act including the following: Commercial solid waste, non-hazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of an MSW landfill may be separated by access roads. A MSW landfill may be either publicly or privately owned. A MSW landfill

may be a new MSW landfill, an existing MSW landfill, or a lateral expansion. All references in this subsection to 40 CFR Part 60 rules mean those rules in effect on July 1, 2000.

(a) Applicability. These rules apply to each MSW landfill constructed, reconstructed, or modified before May 30, 1991; and the MSW landfill accepted waste at any time since November 8, 1987 or the landfill has additional capacity for future waste deposition. (See WAC 173-400-115(2) for the requirements for MSW landfills constructed, reconstructed, or modified on or after May 30, 1991.) Terms in this subsection have the meaning given them in 40 CFR 60.751, except that every use of the word "administrator" in the federal rules referred to in this subsection includes the "permitting authority."

(b) Exceptions. Any physical or operational change to an MSW landfill made solely to comply with these rules is not considered a modification or rebuilding.

(c) Standards for MSW landfill emissions.

(i) A MSW landfill having a design capacity less than 2.5 million megagrams or 2.5 million cubic meters must comply with the requirements of 40 CFR 60.752(a) in addition to the applicable requirements specified in this section.

(ii) A MSW landfill having design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters must comply with the requirements of 40 CFR 60.752(b) in addition to the applicable requirements specified in this section.

(d) Recordkeeping and reporting. A MSW landfill must follow the recordkeeping and reporting requirements in 40 CFR 60.757 (submission of an initial design capacity report) and 40 CFR 60.758 (recordkeeping requirements), as applicable, except as provided for under (d)(i) and (ii).

(i) The initial design capacity report for the facility is due before September 20, 2001.

(ii) The initial nonmethane organic compound (NMOC) emissions rate report is due before September 20, 2001.

(e) Test methods and procedures.

(i) A MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters must calculate the landfill nonmethane organic compound emission rates following the procedures listed in 40 CFR 60.754, as applicable, to determine whether the rate equals or exceeds 50 megagrams per year.

(ii) Gas collection and control systems must meet the requirements in 40 CFR 60.752 (b)(2)(ii) through the following procedures:

(A) The systems must follow the operational standards in 40 CFR 60.753.

(B) The systems must follow the compliance provisions in 40 CFR 60.755 (a)(1) through (a)(6) to determine whether the system is in compliance with 40 CFR 60.752 (b)(2)(ii).

(C) The system must follow the applicable monitoring provisions in 40 CFR 60.756.

(f) Conditions. Existing MSW landfills that meet the following conditions must install a gas collection and control system:

(i) The landfill accepted waste at any time since November 8, 1987, or the landfill has additional design capacity available for future waste deposition;

(ii) The landfill has design capacity greater than or equal to 2.5 million megagrams or 2.5 million cubic meters. The

landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exception values. Any density conversions shall be documented and submitted with the report; and

(iii) The landfill has a nonmethane organic compound (NMOC) emission rate of 50 megagrams per year or greater.

(g) Change in conditions. After the adoption date of this rule, a landfill that meets all three conditions in (e) of this subsection must comply with all the requirements of this section within thirty months of the date when the conditions were met. This change will usually occur because the NMOC emission rate equaled or exceeded the rate of 50 megagrams per year.

(h) Gas collection and control systems.

(i) Gas collection and control systems must meet the requirements in 40 CFR 60.752 (b)(2)(ii).

(ii) The design plans must be prepared by a licensed professional engineer and submitted to the permitting authority within one year after the adoption date of this section.

(iii) The system must be installed within eighteen months after the submittal of the design plans.

(iv) The system must be operational within thirty months after the adoption date of this section.

(v) The emissions that are collected must be controlled in one of three ways:

(A) An open flare designed and operated according to 40 CFR 60.18;

(B) A control system designed and operated to reduce NMOC by 98 percent by weight; or

(C) An enclosed combustor designed and operated to reduce the outlet NMOC concentration to 20 parts per million as hexane by volume, dry basis to three percent oxygen, or less.

(i) Air operating permit.

(i) A MSW landfill that has a design capacity less than 2.5 million megagrams or 2.5 million cubic meters on January 7, 2000, is not subject to the air operating permit regulation, unless the landfill is subject to chapter 173-401 WAC for some other reason. If the design capacity of an exempted MSW landfill subsequently increases to equal or exceed 2.5 million megagrams or 2.5 million cubic meters by a change that is not a modification or reconstruction, the landfill is subject to chapter 173-401 WAC on the date the amended design capacity report is due.

(ii) A MSW landfill that has a design capacity equal to or greater than 2.5 million megagrams or 2.5 million cubic meters on January 7, 2000, is subject to chapter 173-401 WAC beginning on the effective date of this section. (Note: Under 40 CFR 62.14352(e), an applicable MSW landfill must have submitted its application so that by April 6, 2001, the permitting authority was able to determine that it was timely and complete. Under 40 CFR 70.7(b), no source may operate after the time that it is required to submit a timely and complete application.)

(iii) When a MSW landfill is closed, the owner or operator is no longer subject to the requirement to maintain an operating permit for the landfill if the landfill is not subject to chapter 173-401 WAC for some other reason and if either of the following conditions are met:

(A) The landfill was never subject to the requirement for a control system under 40 CFR 62.14353; or

(B) The landfill meets the conditions for control system removal specified in 40 CFR 60.752 (b)(2)(v).

[Statutory Authority: RCW 70.94.152, 05-03-033 (Order 03-07), § 173-400-070, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080, 01-17-062 (Order 99-06), § 173-400-070, filed 8/15/01, effective 9/15/01. Statutory Authority: [RCW 70.94.331, 70.94.510 and chapter 70.94 RCW.] 00-23-130 (Order 98-27), § 173-400-070, filed 11/22/00, effective 12/23/00. Statutory Authority: RCW 70.94.860, 70.94.510 and 70.94.331, 98-15-129 (Order 98-04), § 173-400-070, filed 7/21/98, effective 8/21/98. Statutory Authority: Chapter 70.94 RCW, 96-19-054 (Order 94-35), § 173-400-070, filed 9/13/96, effective 10/14/96; 91-05-064 (Order 90-06), § 173-400-070, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 43.21A and 70.94 RCW, 83-09-036 (Order DE 83-13), § 173-400-070, filed 4/15/83. Statutory Authority: RCW 70.94.331, 80-11-059 (Order DE 80-14), § 173-400-070, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331, 79-06-012 (Order DE 78-21), § 173-400-070, filed 5/8/79; Order DE 76-38, § 173-400-070, filed 12/21/76. Formerly WAC 18-04-070.]

WAC 173-400-075 Emission standards for sources emitting hazardous air pollutants. (1) National emission standards for hazardous air pollutants (NESHAPs). 40 CFR Part 61 and Appendices in effect on July 1, 2004, is adopted by reference. The term "administrator" in 40 CFR Part 61 includes the permitting authority.

(2) The permitting authority may conduct source tests and require access to records, books, files, and other information specific to the control, recovery, or release of those pollutants regulated under 40 CFR Parts 61, 62, 63 and/or 65 in order to determine the status of compliance of sources of these contaminants and to carry out its enforcement responsibilities.

(3) Source testing, monitoring, and analytical methods for sources of hazardous air pollutants must conform with the requirements of 40 CFR Parts 61, 62, 63 and/or 65.

(4) This section does not apply to any source operating under a waiver granted by EPA or an exemption granted by the president of the United States.

(5) Where EPA has delegated to the permitting authority, the authority to receive reports under 40 CFR Parts 61 or 63, from the affected facility in lieu of providing such report to EPA, the affected facility is required to provide such reports

only to the permitting authority unless otherwise requested in writing by the permitting authority or EPA.

(6) Maximum achievable control technology (MACT) standards. MACT standards are officially known as National Emission Standards for Hazardous Air Pollutants for Source Categories.

(a) Adopt by reference.

40 CFR Part 63 and Appendices in effect on October 1, 2004, is adopted by reference. Exceptions are listed in (6)(b) of this section.

The following list of subparts to 40 CFR 63 which are shown as blank or reserved as of the date listed above, is provided for informational purposes only: Subparts K, P, V, Z, FF, NN, ZZ, AAA, BBB, FFF, KKK, SSS, WWW, YYY, ZZZ, BBBB, DDDDD, NNNNN, and OOOOO.

(b) Exceptions to adopting 40 CFR Part 63 by reference.

(i) The term "administrator" in 40 CFR Part 63 includes the permitting authority.

(ii) The following subparts of 40 CFR Part 63 are not adopted by reference:

(A) Subpart C: List of Hazardous Air Pollutants, Petition Process, Lesser Quantity Designations, Source Category List.

(B) Subpart E: Approval of State Programs and Delegation of Federal Authorities.

(C) Subpart M: National Perchloroethylene Emission Standards for Dry Cleaning Facilities as it applies to nonmajor sources.

(6) Consolidated requirements for the synthetic organic chemical manufacturing industry. 40 CFR Part 65, in effect on July 1, 2001, is adopted by reference.

(7) Emission standards for perchloroethylene dry cleaners.

(a) **Applicability.**

(i) This section applies to all dry cleaning systems that use perchloroethylene (PCE). Table 1 divides dry cleaning facilities into 3 regulatory source categories by the type of equipment they use and the volume of PCE purchased. Each dry cleaning system must follow the applicable requirements in Table 1:

TABLE 1. PCE Dry Cleaner Source Categories

Dry cleaning facilities with:	Small area source purchases less than:	Large area source purchases between:	Major source purchases more than:
(1) Only Dry-to-Dry Machines	140 gallons PCE/yr	140-2,100 gallons PCE/yr	2,100 gallons PCE/yr
(2) Only Transfer Machines	200 gallons PCE/yr	200-1,800 gallons PCE/yr	1,800 gallons PCE/yr
(3) Both Dry-to-Dry and Transfer Machines	140 gallons PCE/yr	140-1,800 gallons PCE/yr	1,800 gallons PCE/yr

(ii) Major sources. In addition to the requirements in this section, a dry cleaning system that is considered a major source according to Table 1 must follow the federal requirements for major sources in 40 CFR Part 63, Subpart M (in effect on July 1, 2001).

(b) Operations and maintenance record.

(i) Each dry cleaning facility must keep an operations and maintenance record that is available upon request.

(ii) The information in the operations and maintenance record must be kept on-site for five years.

(iii) The operations and maintenance record must contain the following information:

(A) Inspection: The date and result of each inspection of the dry cleaning system. The inspection must note the condition of the system and the time any leaks were observed.

(B) Repair: The date, time, and result of each repair of the dry cleaning system.

(C) Refrigerated condenser information. If you have a refrigerated condenser, enter this information:

(I) The air temperature at the inlet of the refrigerated condenser;

(II) The air temperature at the outlet of the refrigerated condenser;

(III) The difference between the inlet and outlet temperature readings; and

(IV) The date the temperature was taken.

(D) Carbon adsorber information. If you have a carbon adsorber, enter this information:

(I) The concentration of PCE in the exhaust of the carbon adsorber; and

(II) The date the concentration was measured.

(E) A record of the volume of PCE purchased each month must be entered by the first of the following month;

(F) A record of the total amount of PCE purchased over the previous twelve months must be entered by the first of each month;

(G) All receipts of PCE purchases; and

(H) A record of any pollution prevention activities that have been accomplished.

(c) General operations and maintenance requirements.

(i) Drain cartridge filters in their housing or other sealed container for at least twenty-four hours before discarding the cartridges.

(ii) Close the door of each dry cleaning machine except when transferring articles to or from the machine.

(iii) Store all PCE, and wastes containing PCE, in a closed container with no perceptible leaks.

(iv) Operate and maintain the dry cleaning system according to the manufacturer's specifications and recommendations.

(v) Keep a copy on-site of the design specifications and operating manuals for all dry cleaning equipment.

(vi) Keep a copy on-site of the design specifications and operating manuals for all emissions control devices.

(vii) Route the PCE gas-vapor stream from the dry cleaning system through the applicable equipment in Table 2:

TABLE 2. Minimum PCE Vapor Vent Control Requirements

Small area source	Large area source	Major source
Refrigerated condenser for all machines installed after September 21, 1993.	Refrigerated condenser for all machines.	Refrigerated condenser with a carbon adsorber for all machines installed after September 21, 1993.

(d) Inspection.

(i) The owner or operator must inspect the dry cleaning system at a minimum following the requirements in Table 3:

TABLE 3. Minimum Inspection Frequency

Small area source	Large area source	Major source
Once every 2 weeks.	Once every week.	Once every week.

(ii) An inspection must include an examination of these components for condition and perceptible leaks:

(A) Hose and pipe connections, fittings, couplings, and valves;

(B) Door gaskets and seatings;

(C) Filter gaskets and seatings;

(D) Pumps;

(E) Solvent tanks and containers;

(F) Water separators;

(G) Muck cookers;

(H) Stills;

(I) Exhaust dampers; and

(J) Cartridge filter housings.

(iii) The dry cleaning system must be inspected while it is operating.

(iv) The date and result of each inspection must be entered in the operations and maintenance record at the time of the inspection.

(e) Repair.

(i) Leaks must be repaired within twenty-four hours of detection if repair parts are available.

(ii) If repair parts are unavailable, they must be ordered within two working days of detecting the leak.

(iii) Repair parts must be installed as soon as possible, and no later than five working days after arrival.

(iv) The date and time each leak was discovered must be entered in the operations and maintenance record.

(v) The date, time, and result of each repair must be entered in the operations and maintenance record at the time of the repair.

(f) Requirements for systems with refrigerated condensers. A dry cleaning system using a refrigerated condenser must meet all of the following requirements:

(i) Outlet air temperature.

(A) Each week the air temperature sensor at the outlet of the refrigerated condenser must be checked.

(B) The air temperature at the outlet of the refrigerated condenser must be less than or equal to 45°F (7.2°C) during the cool-down period.

(C) The air temperature must be entered in the operations and maintenance record manual at the time it is checked.

(D) The air temperature sensor must meet these requirements:

(I) An air temperature sensor must be permanently installed on a dry-to-dry machine, dryer or reclaimer at the outlet of the refrigerated condenser. The air temperature sensor must be installed by September 23, 1996, if the dry cleaning system was constructed before December 9, 1991.

(II) The air temperature sensor must be accurate to within 2°F (1.1°C).

(III) The air temperature sensor must be designed to measure at least a temperature range from 32°F (0°C) to 120°F (48.9°C); and

(IV) The air temperature sensor must be labeled "RC outlet."

(ii) Inlet air temperature.

(A) Each week the air temperature sensor at the inlet of the refrigerated condenser installed on a washer must be checked.

(B) The inlet air temperature must be entered in the operations and maintenance record at the time it is checked.

(C) The air temperature sensor must meet these requirements:

(I) An air temperature sensor must be permanently installed on a washer at the inlet of the refrigerated condenser. The air temperature sensor must be installed by September 23, 1996, if the dry cleaning system was constructed before December 9, 1991.

(II) The air temperature sensor must be accurate to within 2°F (1.1°C).

(III) The air temperature sensor must be designed to measure at least a temperature range from 32°F (0°C) to 120°F (48.9°C).

(IV) The air temperature sensor must be labeled "RC inlet."

(iii) For a refrigerated condenser used on the washer unit of a transfer system, the following are additional requirements:

(A) Each week the difference between the air temperature at the inlet and outlet of the refrigerated condenser must be calculated.

(B) The difference between the air temperature at the inlet and outlet of a refrigerated condenser installed on a washer must be greater than or equal to 20°F (11.1°C).

(C) The difference between the inlet and outlet air temperature must be entered in the operations and maintenance record each time it is checked.

(iv) A converted machine with a refrigerated condenser must be operated with a diverter valve that prevents air drawn into the dry cleaning machine from passing through the refrigerated condenser when the door of the machine is open;

(v) The refrigerated condenser must not vent the air-PCE gas-vapor stream while the dry cleaning machine drum is rotating or, if installed on a washer, until the washer door is opened; and

(vi) The refrigerated condenser in a transfer machine may not be coupled with any other equipment.

(g) **Requirements for systems with carbon adsorbers.** A dry cleaning system using a carbon adsorber must meet all of the following requirements:

(i) Each week the concentration of PCE in the exhaust of the carbon adsorber must be measured at the outlet of the carbon adsorber using a colorimetric detector tube.

(ii) The concentration of PCE must be written in the operations and maintenance record each time the concentration is checked.

(iii) If the dry cleaning system was constructed before December 9, 1991, monitoring must begin by September 23, 1996.

(iv) The colorimetric tube must meet these requirements:

(A) The colorimetric tube must be able to measure a concentration of 100 parts per million of PCE in air.

(B) The colorimetric tube must be accurate to within 25 parts per million.

(C) The concentration of PCE in the exhaust of the carbon adsorber must not exceed 100 ppm while the dry cleaning machine is venting to the carbon adsorber at the end of the last dry cleaning cycle prior to desorption of the carbon adsorber.

(v) If the dry cleaning system does not have a permanently fixed colorimetric tube, a sampling port must be provided within the exhaust outlet of the carbon adsorber. The sampling port must meet all of these requirements:

(A) The sampling port must be easily accessible;

(B) The sampling port must be located 8 stack or duct diameters downstream from a bend, expansion, contraction or outlet; and

(C) The sampling port must be 2 stack or duct diameters upstream from a bend, expansion, contraction, inlet or outlet.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-075, filed 1/10/05, effective 2/10/05. Statutory Authority: RCW 70.94.331. 02-15-068 (Order 02-09), § 173-400-075, filed 7/11/02, effective 8/11/02. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-075, filed 8/15/01, effective 9/15/01. Statutory Authority: [RCW 70.94.331, 70.94.510 and chapter 70.94 RCW.] 00-23-130 (Order 98-27), § 173-400-075, filed 11/22/00, effective 12/23/00. Statutory Authority: RCW 70.94.860, 70.94.510 and 70.94.331. 98-15-129 (Order 98-04), § 173-400-075, filed 7/21/98, effective 8/21/98. Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), § 173-400-075, filed 9/13/96, effective 10/14/96; 93-05-044 (Order 92-34), § 173-400-075, filed 2/17/93, effective 3/20/93; 91-05-064 (Order 90-06), § 173-400-075, filed 2/19/91, effective 3/22/91. Statutory Authority: RCW 70.94.331, 70.94.395 and 70.94.510. 85-06-046 (Order 84-48), § 173-400-075, filed 3/6/85. Statutory Authority: Chapter 70.94 RCW. 84-10-019 (Order DE 84-8), § 173-400-075, filed 4/26/84. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-075, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-075, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-075, filed 5/8/79; Order DE 76-38, § 173-400-075, filed 12/21/76. Formerly WAC 18-04-075.]

WAC 173-400-099 Registration program. (1) Program purpose.

(a) The registration program is a program to develop and maintain a current and accurate record of air contaminant sources. Information collected through the registration program is used to evaluate the effectiveness of air pollution control strategies and to verify source compliance with applicable air pollution requirements.

(b) Permit program sources, as defined in RCW 70.94.030(17), are not required to comply with the registration requirements of WAC 173-400-100 through 173-400-104.

(2) Program components. The components of the registration program consist of:

(a) Initial registration and annual or other periodic reports from stationary source owners providing information on location, size, height of contaminant outlets, processes employed, nature and quantity of the air contaminant emissions, and other information that is relevant to air pollution and available or reasonably capable of being assembled. For purposes of this chapter, information relevant to air pollution may include air pollution requirements established by rule, regulatory order, or ordinance pursuant to chapter 70.94 RCW.

(b) On-site inspections necessary to verify compliance with registration requirements.

(c) Data storage and retrieval systems necessary for support of the registration program.

(d) Emission inventory reports and emission reduction credits computed from information provided by source owners pursuant to registration requirements.

(e) Staff review, including engineering analysis for accuracy and currentness of information provided by source owners pursuant to registration program requirements.

(f) Clerical and other office support in direct furtherance of the registration program.

(g) Administrative support provided in directly carrying out the registration program.

[Statutory Authority: RCW 70.94.152, 05-03-033 (Order 03-07), § 173-400-099, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, 95-07-126 (Order 93-40), § 173-400-099, filed 3/22/95, effective 4/22/95.]

WAC 173-400-100 Source classifications. (1) **Source classification list.** In counties without a local authority, or for sources under the jurisdiction of ecology, the owner or operator of each source within the following source categories shall register the source with ecology:

(a) Agricultural chemical facilities engaging in the manufacturing of liquid or dry fertilizers or pesticides;

(b) Agricultural drying and dehydrating operations;

(c) Any category of stationary source that includes an emissions unit subject to a new source performance standard (NSPS) under 40 CFR Part 60, other than Subpart AAA (Standards of Performance for New Residential Wood Heaters);

(d) Any stationary source, that includes an emissions unit subject to a National Emission Standard for Hazardous Air Pollutants (NESHAP) under 40 CFR Part 61, other than:

(i) Subpart M (National Emission Standard for Asbestos); or

(ii) Sources or emission units emitting only radionuclides, which are required to obtain a license under WAC 246-247-060, and are subject to 40 CFR Part 61, subparts H and/or I, and that are not subject to any other part of 40 CFR 61, 62, or 63, or any other parts of this section;

(e) Any source, or emissions unit subject to a National Emission Standard for Hazardous Air Pollutants for Source Categories (Maximum Achievable Control Technology (MACT) standard) under 40 CFR Part 63;

(f) Any source, stationary source or emission unit with an emission rate of one or more pollutants equal to or greater than an "emission threshold" defined in WAC 173-400-030;

(g) Asphalt and asphalt products production facilities;

(h) Brick and clay manufacturing plants, including tiles and ceramics;

(i) Casting facilities and foundries, ferrous and nonferrous;

(j) Cattle feedlots with operational facilities which have an inventory of one thousand or more cattle in operation between June 1 and October 1, where vegetation forage growth is not sustained over the majority of the lot during the normal growing season;

(k) Chemical manufacturing plants;

(l) Composting operations, including commercial, industrial and municipal, but exempting residential composting activities;

(m) Concrete product manufacturers and ready mix and premix concrete plants;

(n) Crematoria or animal carcass incinerators;

(o) Dry cleaning plants;

(p) Materials handling and transfer facilities that generate fine particulate, which may include pneumatic conveying, cyclones, baghouses, and industrial housekeeping vacuuming systems that exhaust to the atmosphere;

(q) Flexible vinyl and urethane coating and printing operations;

(r) Grain, seed, animal feed, legume, and flour processing operations, and handling facilities;

(s) Hay cubers and pelletizers;

(t) Hazardous waste treatment and disposal facilities;

(u) Ink manufacturers;

(v) Insulation fiber manufacturers;

(w) Landfills, active and inactive, including covers, gas collections systems or flares;

(x) Metal plating and anodizing operations;

(y) Metallic and nonmetallic mineral processing plants, including rock crushing plants;

(z) Mills such as lumber, plywood, shake, shingle, wood-chip, veneer operations, dry kilns, pulpwood insulating board, or any combination thereof;

(aa) Mineralogical processing plants;

(bb) Other metallurgical processing plants;

(cc) Paper manufacturers;

(dd) Petroleum refineries;

(ee) Petroleum product blending operations;

(ff) Plastics and fiberglass product fabrication facilities;

(gg) Rendering plants;

(hh) Soil and ground water remediation projects;

(ii) Surface coating manufacturers;

(jj) Surface coating operations including: Automotive, metal, cans, pressure sensitive tape, labels, coils, wood, plastic, rubber, glass, paper and other substrates;

(kk) Synthetic fiber production facilities;

(ll) Synthetic organic chemical manufacturing industries;

(mm) Tire recapping facilities;

(nn) Wastewater treatment plants;

(oo) Any source that has elected to opt-out of the operating permit program by limiting its potential-to-emit (synthetic minor) or is required to report periodically to demonstrate nonapplicability to EPA requirements under Sections 111 or 112 of Federal Clean Air Act.

(2) **Equipment classification list.** In counties without a local authority, the owner or operator of the following equipment shall register the source with ecology:

(a) Boilers, all solid and liquid fuel burning boilers with the exception of those utilized for residential heating;

(b) Boilers, all gas fired boilers above 10 million British thermal units per hour input;

(c) Chemical concentration evaporators;

(d) Degreasers of the cold or vapor type in which more than five percent of the solvent is comprised of halogens or such aromatic hydrocarbons as benzene, ethylbenzene, toluene or xylene;

(e) Ethylene oxide (ETO) sterilizers;

(f) Flares utilized to combust any gaseous material;

(g) Fuel burning equipment with a heat input of more than 1 million Btu per hour; except heating, air conditioning systems, or ventilating systems not designed to remove contaminants generated by or released from equipment;

(h) Incinerators designed for a capacity of one hundred pounds per hour or more;

(i) Ovens, burn-out and heat-treat;

(j) Stationary internal combustion engines and turbines rated at five hundred horsepower or more;

(k) Storage tanks for organic liquids associated with commercial or industrial facilities with capacities equal to or greater than 40,000 gallons;

(l) Vapor collection systems within commercial or industrial facilities;

(m) Waste oil burners above 0.5 mm Btu heat output;

(n) Woodwaste incinerators;

(o) Commercial and industrial solid waste incineration units subject to WAC 173-400-050(4);

(p) Small municipal waste combustion units subject to WAC 173-400-050(5).

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-100, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-100, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW. 95-07-126 (Order 93-40), § 173-400-100, filed 3/22/95, effective 4/22/95; 93-18-007 (Order 93-03), § 173-400-100, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-100, filed 2/19/91, effective 3/22/91. Statutory Authority: RCW 70.94.331, 70.94.395 and 70.94.510. 85-06-046 (Order 84-48), § 173-400-100, filed 3/6/85. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-100, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-100, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-100, filed 5/8/79; Order DE 76-38, § 173-400-100, filed 12/21/76. Formerly WAC 18-04-100.]

WAC 173-400-102 Scope of registration and reporting requirements. (1) **Administrative options.** A source in a listed source category that is located in a county without an active local authority will be addressed in one of several ways:

(a) The source will be required to register and report once each year. The criteria for identifying these sources are listed in subsection (2) of this section.

(b) The source will be required to register and report once every three years. The criteria for identifying these sources are listed in subsection (3) of this section.

(c) The source will be exempted from registration program requirements. The criteria for identifying these sources are listed in subsection (4) of this section.

(2) **Sources requiring annual registration and inspections.** An owner or operator of a source in a listed source category that meets any of the following criteria shall register and report once each year:

(a) The source emits one or more air pollutants at rates greater than the "emission threshold" rates defined in WAC 173-400-030;

(b) Annual registration and reporting is necessary to comply with federal reporting requirements or emission standards; or

(c) Annual registration and reporting is required in a reasonably available control technology determination for the source category; or

(d) The director of ecology determines that the source poses a potential threat to human health and the environment.

(3) **Sources requiring periodic registration and inspections.** An owner or operator of a source in a listed source category that meets any of the following criteria shall register and report once every three years:

(a) The source emits one or more air pollutants at rates greater than the emission rates listed in subsection (5) of this

section and all air pollutants at rates less than the "emission threshold" rates defined in WAC 173-400-030; or

(b) The source emits measurable amounts of one or more Class A or Class B toxic air pollutants listed in WAC 173-460-150 and 173-460-160.

(4) **Sources exempt from registration program requirements.** Any source included in a listed source category that is located in a county without an active local air authority shall not be required to register if ecology determines the following:

(a) The source emits pollutants below emission rates specified in subsection (5) of this section; and

(b) The source or emission unit does not emit measurable amounts of Class A or Class B toxic air pollutants specified in WAC 173-460-150 and 173-460-160.

(5) **Criteria for defining exempt sources.** The following emission rates will be used to identify listed sources that are exempt from registration program requirements:

Pollutant	Tons/Year
Carbon Monoxide	5.0
Nitrogen oxides	2.0
Sulfur dioxide	2.0
Particulate Matter (PM)	1.25
Fine Particulate (PM10)	0.75
Volatile organic compounds (VOC)	2.0
Lead	0.005

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-102, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-102, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW. 95-07-126 (Order 93-40), § 173-400-102, filed 3/22/95, effective 4/22/95.]

WAC 173-400-104 Registration fees. (1) **Registration fee determination.** In counties without an active local air pollution control authority, ecology shall establish registration fees based on workload using the process outlined below. The fees collected shall be sufficient to cover the direct and indirect costs of administering the registration program within ecology's jurisdiction.

(2) **Budget preparation.** Ecology shall conduct a workload analysis projecting resource requirements for administering the registration program. Workload estimates shall be prepared on a biennial basis and shall estimate the resources required to perform registration program activities listed in WAC 173-400-099(2). Ecology shall prepare a budget for administering the registration program using workload estimates identified in the workload analysis for the biennium.

(3) **Registration fee schedule.** Ecology's registration program budget shall be distributed to sources located in its jurisdiction according to the following:

(a) Sources requiring periodic registration and inspections shall pay an annual registration fee of four hundred dollars.

(b) Sources requiring annual registration and inspections shall pay a registration fee comprised of the following three components:

(i) **Flat component.** This portion of a source's fee shall be calculated by the equal division of thirty-five percent of the budget amount allocated to annual registration sources by the total number of sources requiring annual registration.

(ii) Complexity component. Each source is assigned a complexity rating of 1, 3, or 5 which is based on the estimated amount of time needed to review and inspect the source. This portion of the fee is calculated by dividing forty percent of the budget amount allocated to annually registered sources by the total complexity of sources located in ecology's jurisdiction. The quotient is then multiplied by an individual source's complexity rating to determine that source's complexity portion of the fee.

(iii) Emissions component. This portion of a source's fee is calculated by dividing twenty-five percent of the budget amount allocated to annually registered sources by the total billable emissions from those sources. The quotient is then multiplied by an individual source's billable emissions to determine that source's emissions portion of the fee. Billable emissions include all air pollutants except carbon monoxide and total suspended particulate.

(4) Regulatory orders. Owners or operators registering a source as a synthetic minor must obtain a regulatory order which limits the source's emissions. The owner will be required to pay a fee based on the amount of time required to research and write the order multiplied by an hourly rate of sixty dollars.

(5) Fee reductions for pollution prevention initiatives. Ecology may reduce registration fees for an individual source if that source demonstrates the use of approved pollution prevention measures or best management practices beyond those required of the source.

(6) Fee reductions for economic hardships. If a small business owner believes the registration fee results in an extreme economic hardship, the small business owner may request an extreme hardship fee reduction. The owner or operator must provide sufficient evidence to support a claim of an extreme hardship. The factors which ecology may consider in determining whether an owner or operator has special economic circumstances and in setting the extreme hardship fee include: Annual sales; labor force size; market conditions which affect the owner's or operator's ability to pass the cost of the registration fee through to customers; average annual profits, and cumulative effects of multiple site ownership. In no case will a registration fee be reduced below two hundred dollars.

(7) Fee payments. Fees specified in this section shall be paid within thirty days of receipt of ecology's billing statement. All fees collected under this regulation shall be made payable to the Washington department of ecology. A late fee surcharge of fifty dollars or ten percent of the fee, whichever is more, may be assessed for any fee not received after the thirty-day period.

(8) Dedicated account. All registration fees collected by ecology shall be deposited in the air pollution control account.

(9) Tracking revenues, time, and expenditures. Ecology shall track revenues collected under this subsection on a source-specific basis. Ecology shall track time and expenditures on the basis of ecology budget functions.

(10) Additional registration fee for fossil fueled electric generating facilities. A fossil fueled electric generating facility subject to the provisions of chapter 80.70 RCW and RCW 70.94.892, is subject to additional fees pursuant to that chapter.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-104, filed 1/10/05, effective 2/10/05. Statutory Authority: [RCW 70.94.331, 70.94.510 and chapter 70.94 RCW.] 00-23-130 (Order 98-27), § 173-400-104, filed 11/22/00, effective 12/23/00. Statutory Authority: Chapter 70.94 RCW. 95-07-126 (Order 93-40), § 173-400-104, filed 3/22/95, effective 4/22/95.]

WAC 173-400-105 Records, monitoring, and reporting. The owner or operator of a source shall upon notification by the director of ecology, maintain records on the type and quantity of emissions from the source and other information deemed necessary to determine whether the source is in compliance with applicable emission limitations and control measures.

(1) Emission inventory. The owner(s) or operator(s) of any air contaminant source shall submit an inventory of emissions from the source each year. The inventory will include stack and fugitive emissions of particulate matter, PM-10, PM-2.5, sulfur dioxide, oxides of nitrogen, carbon monoxide, total reduced sulfur compounds (TRS), fluorides, lead, VOCs, ammonia, and other contaminants. The format for the submittal of these inventories will be specified by the permitting authority or ecology. When submittal of emission inventory information is requested, the emissions inventory shall be submitted no later than one hundred five days after the end of the calendar year. The owner(s) or operator(s) shall maintain records of information necessary to substantiate any reported emissions, consistent with the averaging times for the applicable standards. Emission estimates used in the inventory may be based on the most recent published EPA emission factors for a source category, or other information available to the owner(s) or operator(s), whichever is the better estimate.

(2) **Monitoring.** Ecology shall conduct a continuous surveillance program to monitor the quality of the ambient atmosphere as to concentrations and movements of air contaminants. As a part of this program, the director of ecology or an authorized representative may require any source under the jurisdiction of ecology to conduct stack and/or ambient air monitoring and to report the results to ecology.

(3) **Investigation of conditions.** Upon presentation of appropriate credentials, for the purpose of investigating conditions specific to the control, recovery, or release of air contaminants into the atmosphere, personnel from ecology or an authority shall have the power to enter at reasonable times upon any private or public property, excepting nonmultiple unit private dwellings housing one or two families.

(4) **Source testing.** To demonstrate compliance, ecology or the authority may conduct or require that a test be conducted of the source using approved EPA methods from 40 CFR parts 51, 60, 61 and 63 (in effect on July 1, 2004), or procedures contained in "Source Test Manual - Procedures for Compliance Testing," state of Washington, department of ecology, as of July 12, 1990, on file at ecology. The operator of a source may be required to provide the necessary platform and sampling ports for ecology personnel or others to perform a test of an emissions unit. Ecology shall be allowed to obtain a sample from any emissions unit. The operator of the source shall be given an opportunity to observe the sampling and to obtain a sample at the same time.

(5) **Continuous monitoring and recording.** Owners and operators of the following categories of sources shall

install, calibrate, maintain and operate equipment for continuously monitoring and recording those emissions specified.

(a) Fossil fuel-fired steam generators.

(i) Opacity, except where:

(A) Steam generator capacity is less than two hundred fifty million BTU per hour heat input; or

(B) Only gaseous fuel is burned.

(ii) Sulfur dioxide, except where steam generator capacity is less than two hundred fifty million BTU per hour heat input or if sulfur dioxide control equipment is not required.

(iii) Percent oxygen or carbon dioxide where such measurements are necessary for the conversion of sulfur dioxide continuous emission monitoring data.

(iv) General exception. These requirements do not apply to a fossil fuel-fired steam generator with an annual average capacity factor of less than thirty percent, as reported to the Federal Power Commission for calendar year 1974, or as otherwise demonstrated to ecology or the authority by the owner(s) or operator(s).

(b) **Sulfuric acid plants.** Sulfur dioxide where production capacity is more than three hundred tons per day, expressed as one hundred percent acid, except for those facilities where conversion to sulfuric acid is utilized primarily as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds.

(c) Fluid bed catalytic cracking units catalyst regenerators at petroleum refineries. Opacity where fresh feed capacity is more than twenty thousand barrels per day.

(d) Wood residue fuel-fired steam generators.

(i) Opacity, except where steam generator capacity is less than one hundred million BTU per hour heat input.

(ii) Continuous monitoring equipment. The requirements of (e) of this subsection do not apply to wood residue fuel-fired steam generators, but continuous monitoring equipment required by (d) of this subsection shall be subject to approval by ecology.

(e) Owners and operators of those sources required to install continuous monitoring equipment under this subsection shall demonstrate to ecology or the authority, compliance with the equipment and performance specifications and observe the reporting requirements contained in 40 CFR Part 51, Appendix P, Sections 3, 4 and 5 (in effect on July 1, 2004).

(f) Special considerations. If for reason of physical plant limitations or extreme economic situations, ecology determines that continuous monitoring is not a reasonable requirement, alternative monitoring and reporting procedures will be established on an individual basis. These will generally take the form of stack tests conducted at a frequency sufficient to establish the emission levels over time and to monitor deviations in these levels.

(g) Exemptions. This subsection (5) does not apply to any equipment subject to: Continuous emissions monitoring requirement imposed by standard or requirement under 40 CFR Parts 60, 61, 62, 63, or 75 or a permitting authority's adoption by reference of such federal standards.

(h) Monitoring system malfunctions. A source may be temporarily exempted from the monitoring and reporting requirements of this chapter during periods of monitoring system malfunctions provided that the source owner(s) or operator(s) shows to the satisfaction of the permitting author-

ity that the malfunction was unavoidable and is being repaired as expeditiously as practicable.

(6) Change in raw materials or fuels for sources not subject to requirements of the operating permit program. Any change or series of changes in raw material or fuel which will result in a cumulative increase in emissions of sulfur dioxide of forty tons per year or more over that stated in the initial inventory required by subsection (1) of this section shall require the submittal of sufficient information to ecology or the authority to determine the effect of the increase upon ambient concentrations of sulfur dioxide. Ecology or the authority may issue regulatory orders requiring controls to reduce the effect of such increases. Cumulative changes in raw material or fuel of less than 0.5 percent increase in average annual sulfur content over the initial inventory shall not require such notice.

(7) No person shall make any false material statement, representation or certification in any form, notice or report required under chapter 70.94 or 70.120 RCW, or any ordinance, resolution, regulation, permit or order in force pursuant thereto.

(8) No person shall render inaccurate any monitoring device or method required under chapter 70.94 or 70.120 RCW, or any ordinance, resolution, regulation, permit, or order in force pursuant thereto.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-105, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.1]52, [70.94.1]331, [70.94.1]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-105, filed 8/15/01, effective 9/15/01. Statutory Authority: RCW 70.94.860, 70.94.510 and 70.94.331. 98-15-129 (Order 98-04), § 173-400-105, filed 7/21/98, effective 8/21/98. Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), § 173-400-105, filed 9/13/96, effective 10/14/96; 93-18-007 (Order 93-03), § 173-400-105, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-105, filed 2/19/91, effective 3/22/91; 87-20-019 (Order 87-12), § 173-400-105, filed 9/30/87.]

WAC 173-400-110 New source review (NSR). In lieu of filing a notice of construction application under this section, the owner or operator may apply for coverage under an applicable general order of approval issued under WAC 173-400-560. Coverage under a general order of approval satisfies the requirement for new source review under RCW 70.94.152.

(1) Applicability.

(a) This section, WAC 173-400-112 and 173-400-113 apply statewide except where an authority has adopted its own new source review rule.

(b) This section applies to sources as defined in RCW 70.94.030(21), but does not include nonroad engines. Nonroad engines are regulated under WAC 173-400-035.

(2) Projects subject to NSR - notice of construction application.

(a) A notice of construction application must be filed by the owner or operator and an order of approval issued by the permitting authority prior to the establishment of any new source, except for the following:

(i) Those sources exempt under subsection (4) or (5) of this section; and

(ii) A source regulated under WAC 173-400-035.

For purposes of this section "establishment" shall mean to begin actual construction, as that term is defined in WAC

173-400-030, and "new source" shall include any modification to an existing stationary source, as defined in WAC 173-400-030.

(b) Regardless of any other subsection of this section, a notice of construction application must be filed and an order of approval issued by the permitting authority prior to establishment of any of the following new sources:

(i) Any project that qualifies as construction, reconstruction or modification of an affected facility, within the meaning of 40 CFR Part 60 (New Source Performance Standards), except Part AAA, Wood stoves (in effect on February 20, 2001);

(ii) Any project that qualifies as a new or modified source within the meaning of 40 CFR 61.02 (National Emission Standards for Hazardous Air Pollutants) (in effect on July 1, 2004), except for asbestos demolition and renovation projects subject to 40 CFR 61.145, and except from sources or emission units emitting only radionuclides, which are required to obtain a license under WAC 246-247-060, and are subject to 40 CFR Part 61, subparts H and/or I;

(iii) Any project that qualifies as a new source within the meaning of 40 CFR 63.2 (National Emission Standards for Hazardous Air Pollutants for Source Categories) (in effect on July 1, 2004);

(iv) Any project that qualifies as a new major stationary source, or a major modification to a major stationary source subject to the requirements of WAC 173-400-112;

(v) Any modification to a stationary source that requires an increase either in a plant-wide cap or in a unit specific emission limit.

(c) An applicant filing a notice of construction application for a project described in WAC 173-400-117(2), Special protection requirements for Class I areas, must send a copy of the application to the responsible federal land manager.

(3) **Modifications.** New source review of a modification shall be limited to the emission unit or units proposed to be added to an existing source or modified and the air contaminants whose emissions would increase as a result of the modification; provided, however, that review of a major modification must comply with WAC 173-400-112 and/or 173-400-720, as applicable.

(4) Emission unit and activity exemptions.

Except as provided in subsection (2) of this section, establishment of a new emission unit that falls within one of the categories listed below is exempt from new source review. Modification of any emission unit listed below is exempt from new source review, provided that the modified unit continues to fall within one of the listed categories. The installation or modification of a unit exempt under this subsection does not require the filing of a notice of construction application.

(a) Maintenance/construction:

(i) Cleaning and sweeping of streets and paved surfaces;

(ii) Concrete application, and installation;

(iii) Dredging wet spoils handling and placement;

(iv) Paving application and maintenance, excluding asphalt plants;

(v) Plant maintenance and upkeep activities (grounds keeping, general repairs, routine house keeping, routine plant painting, welding, cutting, brazing, soldering, plumbing, retarring roofs, etc.);

(vi) Plumbing installation, plumbing protective coating application and maintenance activities;

(vii) Roofing application;

(viii) Insulation application and maintenance, excluding products for resale;

(ix) Janitorial services and consumer use of janitorial products.

(b) Storage tanks:

Note: It can be difficult to determine requirements for storage tanks. Ecology strongly recommends that an owner or operator contact the permitting authority to determine the exemption status of storage tanks prior to their installation.

(i) Lubricating oil storage tanks except those facilities that are wholesale or retail distributors of lubricating oils;

(ii) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation;

(iii) Storage tanks, reservoirs, pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions;

(iv) Process and white water storage tanks;

(v) Operation, loading and unloading of storage tanks and storage vessels, with lids or other appropriate closure and less than 260 gallon capacity (35 cft);

(vi) Operation, loading and unloading of storage tanks, ≤ 1100 gallon capacity, with lids or other appropriate closure, not for use with materials containing toxic air pollutants, as defined in chapter 173-460 WAC, max. VP 550 mm Hg @21°C;

(vii) Operation, loading and unloading storage of butane, propane, or liquefied petroleum gas with a vessel capacity less than 40,000 gallons;

(viii) Tanks, vessels and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids.

(c) A project with combined aggregate heat inputs of combustion units, ≤ all of the following:

(i) ≤ 500,000 Btu/hr using coal with ≤ 0.5% sulfur or other fuels with ≤ 0.5% sulfur;

(ii) ≤ 500,000 Btu/hr used oil, per the requirements of RCW 70.94.610;

(iii) ≤ 400,000 Btu/hr wood waste or paper;

(iv) < 1,000,000 Btu/hr using kerosene, #1, or #2 fuel oil and with ≤ 0.05% sulfur;

(v) ≤ 4,000,000 Btu/hr using natural gas, propane, or LPG.

(d) Material handling:

(i) Continuous digester chip feeders;

(ii) Grain elevators not licensed as warehouses or dealers by either the Washington state department of agriculture or the U.S. Department of Agriculture;

(iii) Storage and handling of water based lubricants for metal working where organic content of the lubricant is ≤ 10%;

(iv) Equipment used exclusively to pump, load, unload, or store high boiling point organic material in tanks less than one million gallon, material with initial atmospheric boiling point not less than 150°C or vapor pressure not more than 5 mm Hg @21°C, with lids or other appropriate closure.

- (e) Water treatment:
 - (i) Septic sewer systems, not including active wastewater treatment facilities;
 - (ii) NPDES permitted ponds and lagoons used solely for the purpose of settling suspended solids and skimming of oil and grease;
 - (iii) De-aeration (oxygen scavenging) of water where toxic air pollutants as defined in chapter 173-460 WAC are not emitted;
 - (iv) Process water filtration system and demineralizer vents;
 - (v) Sewer manholes, junction boxes, sumps and lift stations associated with wastewater treatment systems;
 - (vi) Demineralizer tanks;
 - (vii) Alum tanks;
 - (viii) Clean water condensate tanks.
- (f) Environmental chambers and laboratory equipment:
 - (i) Environmental chambers and humidity chambers not using toxic air pollutant gases, as regulated under chapter 173-460 WAC;
 - (ii) Gas cabinets using only gases that are not toxic air pollutants regulated under chapter 173-460 WAC;
 - (iii) Installation or modification of a single laboratory fume hood;
 - (iv) Laboratory calibration and maintenance equipment.
- (g) Monitoring/quality assurance/testing:
 - (i) Equipment and instrumentation used for quality control/assurance or inspection purpose;
 - (ii) Hydraulic and hydrostatic testing equipment;
 - (iii) Sample gathering, preparation and management;
 - (iv) Vents from continuous emission monitors and other analyzers.
- (h) Miscellaneous:
 - (i) Single-family residences and duplexes;
 - (ii) Plastic pipe welding;
 - (iii) Primary agricultural production activities including soil preparation, planting, fertilizing, weed and pest control, and harvesting;
 - (iv) Comfort air conditioning;
 - (v) Flares used to indicate danger to the public;
 - (vi) Natural and forced air vents and stacks for bathroom/toilet activities;
 - (vii) Personal care activities;
 - (viii) Recreational fireplaces including the use of barbecues, campfires, and ceremonial fires;
 - (ix) Tobacco smoking rooms and areas;
 - (x) Noncommercial smokehouses;
 - (xi) Blacksmith forges for single forges;
 - (xii) Vehicle maintenance activities, not including vehicle surface coating;
 - (xiii) Vehicle or equipment washing (see (c) of this subsection for threshold for boilers);
 - (xiv) Wax application;
 - (xv) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment not including internal and external combustion equipment;
 - (xvi) Ozone generators and ozonation equipment;
 - (xvii) Solar simulators;
 - (xviii) Ultraviolet curing processes, to the extent that toxic air pollutant gases as defined in chapter 173-460 WAC are not emitted;

- (xix) Electrical circuit breakers, transformers, or switching equipment installation or operation;
- (xx) Pulse capacitors;
- (xxi) Pneumatically operated equipment, including tools and hand held applicator equipment for hot melt adhesives;
- (xxii) Fire suppression equipment;
- (xxiii) Recovery boiler blow-down tank;
- (xxiv) Screw press vents;
- (xxv) Drop hammers or hydraulic presses for forging or metal working;
- (xxvi) Production of foundry sand molds, unheated and using binders less than 0.25% free phenol by sand weight;
- (xxvii) Kraft lime mud storage tanks and process vessels;
- (xxviii) Lime grits washers, filters and handling;
- (xxix) Lime mud filtrate tanks;
- (xxx) Lime mud water;
- (xxxi) Stock cleaning and pressurized pulp washing down process of the brown stock washer;
- (xxxii) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities and transportation marketing facilities;
- (xxxiii) Nontoxic air pollutant, as defined in chapter 173-460 WAC, solvent cleaners less than 10 square feet air-vapor interface with solvent vapor pressure not more than 30 mm Hg @21°C;
- (xxxiv) Surface coating, aqueous solution or suspension containing $\leq 1\%$ (by weight) VOCs, and/or toxic air pollutants as defined in chapter 173-460 WAC;
- (xxxv) Cleaning and stripping activities and equipment using solutions having $\leq 1\%$ VOCs (by weight); on metallic substances, acid solutions are not exempt;
- (xxxvi) Dip coating operations, using materials less than 1% VOCs (by weight) and/or toxic air pollutants as defined in chapter 173-460 WAC.

(5) Exemptions based on emissions.

(a) Except as provided in subsection (2) of this section and in this subsection:

(i) A new emissions unit that has a potential to emit below each of the levels listed in the table contained in (d) of this subsection is exempt from new source review provided that the conditions of (b) of this subsection are met.

(ii) A modification to an existing emissions unit that increases the unit's actual emissions by less than each of the threshold levels listed in the table contained in (d) of this subsection is exempt from new source review provided that the conditions of (b) of this subsection are met.

(b) The owner or operator seeking to exempt a project from new source review under this section shall notify, and upon request, file a brief project summary with the permitting authority prior to beginning actual construction on the project. If the permitting authority determines that the project will have more than a de minimus impact on air quality, the permitting authority may require the filing of a notice of construction application. The permitting authority may require the owner or operator to demonstrate that the emissions increase from the new emissions unit is smaller than all of the levels listed below.

(c) The owner/operator may begin actual construction on the project thirty-one days after the permitting authority receives the summary, unless the permitting authority noti-

fies the owner/operator within thirty days that the proposed new source requires a notice of construction application.

(d) Exemption level table:

POLLUTANT	LEVEL (TONS PER YEAR)
(a) Total Suspended Particulates	1.25
(b) PM-10	0.75
(c) Sulfur Oxides	2.0
(d) Nitrogen Oxides	2.0
(e) Volatile Organic Compounds, total	2.0
(f) Carbon Monoxide	5.0
(g) Lead	0.005
(h) Ozone Depleting Substances (in effect on July 1, 2000), total	1.0
(i) Toxic Air Pollutants	As specified in chapter 173-460 WAC.

(6) Application processing - completeness determination.

(a) Within thirty days after receiving a notice of construction application, the permitting authority shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary to complete the application.

(b) For a project subject to the Special protection requirements for federal Class I areas in WAC 173-400-117(2), a completeness determination includes a determination that the application includes all information required for review of that project under WAC 173-400-117(3).

(7) Final determination.

(a) Within sixty days of receipt of a complete notice of construction application, the permitting authority shall either issue a final decision on the application or for those projects subject to public notice under WAC 173-400-171(1), initiate notice and comment on a proposed decision, followed as promptly as possible by a final decision.

(b) A person seeking approval to construct or modify a source that requires an operating permit may elect to integrate review of the operating permit application or amendment required under chapter 173-401 WAC and the notice of construction application required by this section. A notice of construction application designated for integrated review shall be processed in accordance with operating permit program procedures and deadlines in chapter 173-401 WAC and must also comply with WAC 173-400-171.

(c) Every final determination on a notice of construction application shall be reviewed and signed prior to issuance by a professional engineer or staff under the direct supervision of a professional engineer in the employ of the permitting authority.

(d) If the new source is a major stationary source or the change is a major modification subject to the requirements of WAC 173-400-112, the permitting authority shall:

(i) Submit any control technology determination included in a final order of approval for a major source or a major modification to a major stationary source in a nonattainment area to the RACT/BACT/LAER clearinghouse maintained by EPA; and

(ii) Send a copy of the final approval order to EPA.

(8) **Appeals.** Any conditions contained in an order of approval, or the denial of a notice of construction application may be appealed to the pollution control hearings board as provided in chapter 43.21B RCW. The permitting authority shall promptly mail copies of each order approving or denying a notice of construction application to the applicant and to any other party who submitted timely comments on the application, along with a notice advising parties of their rights of appeal to the pollution control hearings board.

(9) **Construction time limitations.** Approval to construct or modify a stationary source becomes invalid if the applicant does not begin construction within eighteen months after receipt of the approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The permitting authority may extend the eighteen-month period upon a satisfactory showing that an extension is justified. The extension of a project that is either a major stationary source in a nonattainment area or a major modification in a nonattainment area must also require LAER as it exists at the time of the extension. This provision does not apply to the time period between construction of the approved phases of a phased construction project. Each phase must commence construction within eighteen months of the projected and approved commencement construction date.

(10) Change of conditions.

(a) The owner or operator may request, at any time, a change in conditions of an approval order and the permitting authority may approve the request provided the permitting authority finds that:

(i) The change in conditions will not cause the source to exceed an emissions standard;

(ii) No ambient air quality standard will be exceeded as a result of the change;

(iii) The change will not adversely impact the ability of ecology or the authority to determine compliance with an emissions standard;

(iv) The revised order will continue to require BACT, as defined at the time of the original approval, for each new source approved by the order except where the Federal Clean Air Act requires LAER; and

(v) The revised order meets the requirements of WAC 173-400-110, 173-400-112, 173-400-113 and 173-400-720, as applicable.

(b) Actions taken under this subsection are subject to the public involvement provisions of WAC 173-400-171.

(c) This rule does not prescribe the exact form such requests must take. However, if the request is filed as a notice of construction application, that application must be acted upon using the timelines found in subsections (6) and (7) of this section. The fee schedule found in WAC 173-400-116 shall also apply to requests filed as notice of construction applications.

(11) **Enforcement.** All persons who receive an order of approval must comply with all approval conditions contained in the order of approval.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-110, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-110, filed 8/15/01, effective 9/15/01. Statutory Authority: RCW 70.94.860, 70.94.510 and 70.94.331. 98-15-129 (Order 98-04), § 173-400-110, filed 7/21/98, effective

8/21/98. Statutory Authority: RCW 70.94.152, 98-01-183 (Order 96-01), § 173-400-110, filed 12/23/97, effective 1/23/98. Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), § 173-400-110, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-110, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-110, filed 4/15/83. Statutory Authority: RCW 70.94.331, 70.94.510, and 70.94.785. 81-03-002 (Order DE 80-53), § 173-400-110, filed 1/8/81. Statutory Authority: RCW 70.94.331, 80-11-059 (Order DE 80-14), § 173-400-110, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-110, filed 5/8/79; Order DE 76-38, § 173-400-110, filed 12/21/76. Formerly WAC 18-04-110.]

WAC 173-400-112 Requirements for new sources in nonattainment areas. (1) **Definitions.** The following definitions apply to this section:

(a) **"Major modification,"** for the purposes of WAC 173-400-112, means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the Federal Clean Air Act.

(i) Any net emissions increase that is considered significant for volatile organic compounds or nitrogen oxides shall be considered significant for ozone.

(ii) A physical change or change in the method of operation shall not include:

(A) Routine maintenance, repair and replacement;

(B) Use of an alternative fuel or raw material by reason of an order under section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(C) Use of an alternative fuel by reason of an order or rule under section 125 of the Federal Clean Air Act;

(D) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste; (E) Use of an alternative fuel or raw material by a source which:

(I) The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit or approval order condition which was established after December 12, 1976, pursuant to 40 CFR 52.21 or a SIP approved new source review regulation; or

(II) The source is approved to use under any permit or approval order issued under WAC 173-400-112;

(iii) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit or approval order condition which was established after December 21, 1976, pursuant to 40 CFR 52.21 or a SIP approved new source review regulation.

(iv) Any change in ownership at a source.

(v) The addition, replacement, or use of a pollution control project (as defined in 40 CFR 51.165 (a)(1)(xxv), in effect on July 1, 2001) at an existing electric utility steam generating unit, unless the permitting authority determines that such addition, replacement, or use renders the unit less environmentally beneficial, or except:

(A) When the permitting authority has reason to believe that the pollution control project would result in a significant net emissions increase in representative actual annual emissions of any criteria pollutant over levels used for that source in the most recent air quality impact analysis in the area con-

ducted for the purpose of title I of the Federal Clean Air Act, if any; and

(B) The permitting authority determines that the increase will cause or contribute to a violation of any National Ambient Air Quality Standard or PSD increment, or visibility limitation.

(vi) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

(A) The SIP; and

(B) Other requirements necessary to attain and maintain the National Ambient Air Quality Standard during the project and after it is terminated.

(b) **"Major stationary source,"** for the purposes of WAC 173-400-112, means:

(i) Any stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under the Federal Clean Air Act, except that lower emissions thresholds shall apply as follows:

(A) 70 tons per year of PM-10 in any "serious" nonattainment area for PM-10.

(B) 50 tons per year of carbon monoxide in any "serious" nonattainment area for carbon monoxide where stationary sources contribute significantly to carbon monoxide levels in the area.

(ii) Any physical change that would occur at a stationary source not qualifying under (b)(i) of this subsection as a major stationary source, if the change would constitute a major stationary source by itself.

(iii) A major stationary source that is major for volatile organic compounds or NOx shall be considered major for ozone.

(iv) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this paragraph whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources or the source is a major stationary source due to (b)(i)(A) or (b)(i)(B) of this subsection:

(A) Coal cleaning plants (with thermal dryers);

(B) Kraft pulp mills;

(C) Portland cement plants;

(D) Primary zinc smelters;

(E) Iron and steel mills;

(F) Primary aluminum ore reduction plants;

(G) Primary copper smelters;

(H) Municipal incinerators capable of charging more than 50 tons of refuse per day;

(I) Hydrofluoric, sulfuric, or nitric acid plants;

(J) Petroleum refineries;

(K) Lime plants;

(L) Phosphate rock processing plants;

(M) Coke oven batteries;

(N) Sulfur recovery plants;

(O) Carbon black plants (furnace process);

(P) Primary lead smelters;

(Q) Fuel conversion plants;

(R) Sintering plants;

(S) Secondary metal production plants;

(T) Chemical process plants;

(U) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(V) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(W) Taconite ore processing plants;

(X) Glass fiber processing plants;

(Y) Charcoal production plants;

(Z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; and

(AA) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Federal Clean Air Act.

(c) **"Net emissions increase,"** for the purposes of WAC 173-400-112, means:

(i) The amount by which the sum of the following exceeds zero:

(A) Any increase in actual emissions from a particular physical change or change in method of operation at a source; and

(B) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(ii) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs before the date that the increase from the particular change occurs.

(iii) An increase or decrease in actual emissions is creditable only if:

(A) It occurred no more than one year prior to the date of submittal of a complete notice of construction application for the particular change, or it has been documented by an emission reduction credit (ERC). Any emissions increases occurring between the date of issuance of the ERC and the date when a particular change becomes operational shall be counted against the ERC.

(B) The permitting authority has not relied on it in issuing any permit or order of approval for the source under this section or a previous SIP approved nonattainment area new source review regulation, which order or permit is in effect when the increase in actual emissions from the particular change occurs.

(iv) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(v) A decrease in actual emissions is creditable only to the extent that:

(A) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(B) It is federally enforceable at and after the time that actual construction on the particular change begins;

(C) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and

(D) The permitting authority has not relied on it in issuing any permit or order of approval under this section or a SIP approved nonattainment area new source review regulation; or the permitting authority has not relied on it in demonstrating attainment or reasonable further progress.

(vi) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred eighty days.

(d) **"Significant,"** for purposes of WAC 173-400-112, means, in reference to a net emissions increase or the potential of a major stationary source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate

Carbon monoxide:	100 tons per year (tpy)
Nitrogen oxides:	40 tpy
Sulfur dioxide:	40 tpy
Volatile organic compounds:	40 tpy
Lead:	0.6 tpy
PM-10:	15 tpy

(e) **"Stationary source"** and **"source"** for the purposes of WAC 173-400-112 means any building, structure, facility or installation which emits or may emit a regulated NSR pollutant. A stationary source (or source) does not include emissions resulting directly for an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in section 216 of the Federal Clean Air Act.

(f) **"Building, structure facility or installation"** means for the purposes of WAC 173-400-112, all the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group (i.e., which have the same two digit code) as described in the *Standard Industrial Classification Manual*, as amended by the 1977 supplement.

(2) The permitting authority that is reviewing an application to establish a new source in a nonattainment area shall issue the order of approval if it determines that the proposed project satisfies each of the following requirements:

(a) The proposed new source or modification will comply with all applicable new source performance standards, national emission standards for hazardous air pollutants, national emission standards for hazardous air pollutants for source categories, emission standards adopted under chapter 70.94 RCW and, for sources regulated by an authority, the applicable emission standards of that authority.

(b) The proposed new source will employ BACT for all air contaminants, except that if the new source is a major stationary source or the proposed modification is a major modification it will achieve LAER for the air contaminants for which the area has been designated nonattainment and for which the proposed new source or modification is major.

(c) The proposed new source will not cause any ambient air quality standard to be exceeded, will not violate the requirements for reasonable further progress established by the SIP and will comply with WAC 173-400-113(3) for all air contaminants for which the area has not been designated nonattainment.

(d) If the proposed new source is a major stationary source or the proposed modification is a major modification, the permitting authority has determined, based on review of an analysis performed by the source of alternative sites, sizes, production processes, and environmental control techniques, that the benefits of the project significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

(e) If the proposed new source or the proposed modification is major for the air contaminant for which the area is designated nonattainment, allowable emissions from the proposed new source or modification of that air contaminant are offset by reductions in actual emissions from existing sources in the nonattainment area. Emission offsets must be sufficient to ensure that total allowable emissions from existing major stationary sources in the nonattainment area, new or modified sources which are not major stationary sources, and the proposed new or modified source will be less than total actual emissions from existing sources (before submitting the application) so as to represent (when considered together with the nonattainment provisions of section 172 of the Federal Clean Air Act) reasonable further progress. All offsetting emission reductions must satisfy the following requirements:

(i) The proposed new level of allowable emissions of the source or emissions unit(s) providing the reduction must be less than the current level of actual emissions of that source or emissions unit(s). No emission reduction can be credited for actual emissions which exceed the current allowable emissions of the source or emissions unit(s) providing the reduction. Emission reductions imposed by local, state, or federal regulations, regulatory orders, or permits required by the Federal Clean Air Act, including the SIP, cannot be credited.

(ii) The emission reductions must provide for a net air quality benefit. For marginal ozone nonattainment areas, the total emissions of volatile organic compounds or total emissions of nitrogen oxides are reduced by a ratio of 1.1 to 1 for the area in which the new source is located. For any other nonattainment area, the emissions offsets must provide a positive net air quality benefit in the nonattainment area. Determinations on whether emissions offsets provide a positive net air quality benefit will be made in accordance with the guidelines contained in 40 CFR 51 Appendix S (in effect on July 1, 2004).

(iii) If the offsets are provided by another source, the reductions in emissions from that source must be federally enforceable by the time the order of approval for the new or modified source is effective. An emission reduction credit issued under WAC 173-400-131 may be used to satisfy some or all of the offset requirements of this subsection.

(f) If the proposed new source is a major stationary source or the proposed modification is a major modification, the owner or operator has demonstrated that all major stationary sources owned or operated by such person (or by any entity controlling, controlled by, or under common control with such person) in Washington are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards under the Federal Clean Air Act, including all rules in the SIP.

(g) If the proposed new source is a major stationary source within the meaning of WAC 173-400-720, or the proposed modification is a major modification within the meaning of WAC 173-400-720, it meets the requirements of the PSD program in WAC 173-400-720 for all air contaminants for which the area has not been designated nonattainment.

(h) If the proposed new source or modification will emit any toxic air pollutants regulated under chapter 173-460 WAC, the source meets all applicable requirements of that chapter.

(i) If the proposed new source is a major stationary source within the meaning of WAC 173-400-720, or the proposed modification is a major modification within the meaning of WAC 173-400-720, the project meets the special protection requirements for federal Class I areas in WAC 173-400-117.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-112, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-112, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), § 173-400-112, filed 8/20/93, effective 9/20/93.]

WAC 173-400-113 Requirements for new sources in attainment or unclassifiable areas. The permitting authority that is reviewing an application to establish a new source or modification in an attainment or unclassifiable area shall issue an order of approval if it determines that the proposed project satisfies each of the following requirements:

(1) The proposed new source or modification will comply with all applicable new source performance standards, national emission standards for hazardous air pollutants, national emission standards for hazardous air pollutants for source categories, emission standards adopted under chapter 70.94 RCW and, for sources regulated by an authority, the applicable emission standards of that authority.

(2) The proposed new source or modification will employ BACT for all pollutants not previously emitted or whose emissions would increase as a result of the new source or modification.

(3) Allowable emissions from the proposed new source or modification will not delay the attainment date for an area not in attainment nor cause or contribute to a violation of any ambient air quality standard. This requirement will be considered to be met if the projected impact of the allowable emissions from the proposed new source or the projected impact of the increase in allowable emissions from the proposed modification at any location within a nonattainment area does not exceed the following levels for the pollutants for which the area has been designated nonattainment:

Pollutant	Annual Average	24-Hour Average	8-Hour Average	3-Hour Average	1-Hour Average
CO-	-	-	0.5 mg/m ³	-	2 mg/m ³
SO ₂	1.0 µg/m ³	5 µg/m ³	-	25 µg/m ³	30 µg/m ³
PM ₁₀	1.0 µg/m ³	5 µg/m ³	-	-	-
NO ₂	1.0 µg/m ³	-	-	-	-

An offsetting emission reduction may be used to satisfy some or all of the requirements of this subsection.

(4) If the proposed new source is a major stationary source or the proposed modification is a major modification,

it meets all applicable requirements of WAC 173-400-720 through 173-400-750.

(5) If the proposed new source or the proposed modification will emit any toxic air pollutants regulated under chapter 173-460 WAC, the source meets all applicable requirements of that program.

(6) If the proposed new source is a major stationary source or the proposed modification is a major modification, the project meets the special protection requirements for federal Class I areas of WAC 173-400-117.

[Statutory Authority: RCW 70.94.152, 05-03-033 (Order 03-07), § 173-400-113, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080, 01-17-062 (Order 99-06), § 173-400-113, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW, 93-18-007 (Order 93-03), § 173-400-113, filed 8/20/93, effective 9/20/93.]

WAC 173-400-115 Standards of performance for new sources. NSPS. Standards of performance for new sources are called New Source Performance Standards, or NSPS.

(1) Adoption by reference.

(a) 40 CFR Part 60 and Appendices in effect on July 1, 2004, is adopted by reference. Exceptions are listed in subsection (1)(b) of this section.

The following list of subparts to 40 CFR Part 60 which are shown as blank or reserved in the Code of Federal Regulations as of the date listed above, is provided for informational purposes only:

40 CFR Part 60, subparts FF, II, JJ, OO, YY, ZZ, CCC, EEE, MMM, XXX, YYY, ZZZ, Appendix E, and Appendix H.

(b) Exceptions to adopting 40 CFR Part 60 by reference.

(i) The term "administrator" in 40 CFR Part 60 includes the permitting authority.

(ii) The following sections and subparts of 40 CFR Part 60 are not adopted by reference:

(A) 40 CFR 60.5 (determination of construction or modification);

(B) 40 CFR 60.6 (review of plans);

(C) 40 CFR Part 60, subpart B (Adoption and Submittal of State Plans for Designated Facilities), and subparts C, Cb, Cc, Cd, Ce, BBBB, and DDDD (emission guidelines); and

(D) 40 CFR Part 60, Appendix G, Provisions for an Alternative Method of Demonstrating Compliance With 40 CFR 60.43 for the Newton Power Station of Central Illinois Public Service Company.

(2) Where EPA has delegated to the permitting authority, the authority to receive reports under 40 CFR Part 60, from the affected facility in lieu of providing such report to EPA, the affected facility is required to provide such reports only to the permitting authority unless otherwise requested in writing by the permitting authority or EPA.

Note: Under RCW 80.50.020(14), larger energy facilities subject to subparts D, Da, GG, J, K, Kb, Y, KKK, LLL, and QQQ are regulated by the energy facility site evaluation council (EFSEC).

[Statutory Authority: RCW 70.94.152, 05-03-033 (Order 03-07), § 173-400-115, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080, 01-17-062 (Order 99-06), § 173-400-115, filed 8/15/01, effective 9/15/01. Statutory Authority: [RCW 70.94.331, 70.94.510 and chapter 70.94 RCW.] 00-23-130 (Order 98-27), § 173-400-115, filed 11/22/00,

effective 12/23/00. Statutory Authority: RCW 70.94.785, 98-22-019 (Order 98-02), § 173-400-115, filed 10/23/98, effective 11/23/98. Statutory Authority: Chapter 70.94 RCW, 96-19-054 (Order 94-35), § 173-400-115, filed 9/13/96, effective 10/14/96; 93-05-044 (Order 92-34), § 173-400-115, filed 2/17/93, effective 3/20/93; 91-05-064 (Order 90-06), § 173-400-115, filed 2/19/91, effective 3/22/91. Statutory Authority: RCW 70.94.331, 70.94.395 and 70.94.510, 85-06-046 (Order 84-48), § 173-400-115, filed 3/6/85. Statutory Authority: Chapters 43.21A and 70.94 RCW, 83-09-036 (Order DE 83-13), § 173-400-115, filed 4/15/83; 82-16-019 (Order DE 82-20), § 173-400-115, filed 7/27/82. Statutory Authority: RCW 70.94.331, 80-11-059 (Order DE 80-14), § 173-400-115, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331, 79-06-012 (Order DE 78-21), § 173-400-115, filed 5/8/79; Order DE 76-38, § 173-400-115, filed 12/21/76. Formerly WAC 18-04-115.]

WAC 173-400-116 New source review fees. (1) Applicability. Every person required to submit a notice of construction application to the department of ecology as authorized in RCW 70.94.152 for establishment of any proposed new source or emissions unit(s) shall pay fees as set forth in subsections (2) and (3) of this section. Persons required to submit a notice of construction application to a local air authority may be required to pay a fee as required by the local permitting authority. Persons required to submit a notice of construction application to a local air authority may be required to pay a fee to ecology to cover the costs of review pursuant to WAC 173-400-720, second tier analysis pursuant to WAC 173-460-090, and risk management decisions pursuant to WAC 173-460-100 as set forth in subsection (3) of this section. Fees assessed under this section shall apply without regard to whether an order of approval is issued or denied.

(2) Basic review fees. All owners or operators of proposed new sources are required to pay a basic review fee. The basic review fee covers the costs associated with preapplication assistance, completeness determination, BACT determination, technical review, public involvement and approval/denial orders. Complexity determination shall be based on the project described in the notice of construction application. The basic review fees are either (a) or (b) below:

(a) Basic new source review fees.

Source type	Clarifying criteria	Fee
Basic Review Fees		
Low complexity source	Emissions increase of individual pollutants are all less than one-half of the levels established in the definition of "emission threshold" in WAC 173-400-030, or emissions increase of individual toxic air pollutants are all less than 2.0 tons/year	\$1250
Moderate complexity	Emissions increase of one or more individual pollutants are greater than one-half of, and less than the levels established in the definition of "emission threshold" in WAC 173-400-030, or emissions increase of one or more toxic air pollutants are greater than 2.0 tons/year and less than ten tons/year	\$8000

Source type	Clarifying criteria	Fee
High complexity	Emissions increase of one or more pollutants are greater than the levels established in the definition of "emission threshold" in WAC 173-400-030, or emissions increase of one or more toxic air pollutants are greater than ten tons/year	\$18,000

(b) New source review fees for specific source categories.

Source type	Clarifying criteria	Fee
Dry cleaners		\$250
Gasoline stations		\$250
Storage tanks		
	< 20,000 gallons	\$250
	20,000 - 100,000 gallons	\$650
	> 100,000 gallons	\$900
Chromic acid plating and anodizing identified in WAC 173-460-060		\$250
Solvent metal cleaners identified in WAC 173-460-060		\$250
Abrasive blasting identified in WAC 173-460-060		\$250
New emission units or activities that qualify as insignificant emission units under WAC 173-401-530 whether located at a chapter 173-401 WAC source or nonchapter 173-401 WAC source		\$250
Application for coverage under a general order of approval	WAC 173-400-560 and criteria included in a specific general order of approval	\$500
Nonroad engines		
Less than a total of 500 installed horsepower		\$500
More than 500 horsepower and less than a total of 2000 installed horsepower		\$900
More than 2000 horsepower and less than a total of 5000 installed horsepower		\$2000

Source type	Clarifying criteria	Fee
More than 5000 horsepower and less than a total of 10,000 installed horsepower		\$4000
More than a total of 10,000 installed horsepower		\$7500

(c) Additional units. An owner or operator proposing to build more than one identical emission unit shall be charged a fee for the additional units equal to one-third the basic review fee of the first unit.

(3) **Additional charges.** In addition to those fees required under subsection (2)(a) through (c) of this section, the following fees will be required as applicable:

(a) Major NSR actions under WAC 173-400-720 and 173-400-112.

Activity	Clarifying criteria	Fee
Prevention of significant deterioration review or increase in a PAL limitation	WAC 173-400-720	\$15,000
Establishing LAER and offset requirements	WAC 173-400-112	\$10,000
Establishing or renewal of clean unit status	Per 40 CFR 52.21(y)	\$1500
Pollution control project approval	Per 40 CFR 52.21(z)	\$1500
Establishment of a PAL	Per 40 CFR 52.21(aa)	\$4000
Renewal of a PAL	Per 40 CFR 52.21(aa)	\$4000
Expiration of a PAL	Per 40 CFR 52.21(aa)	\$12,000
PSD permit revisions		
All except administrative	WAC 173-400-750	\$10,000
Administrative revisions	WAC 173-400-750	\$1500

(b) Other actions.

Activity		Fee
Tier II toxic air pollutant impact review		\$10,000
Tier III toxic air pollutant impact review		\$10,000
Case-by-case MACT determinations		\$12,500
Fossil fueled electric generating unit	Applicability criteria found in chapter 80.70 RCW	Fees listed in rule implementing RCW 70.94.892 and chapter 80.70 RCW

Activity	Fee
Changes to existing orders of approval, Tier I review, Tier II review, or other action identified above.	
Modification to order of approval	50% of the fee charged in WAC 173-400-116 (2)(a)
Modification of Tier II approval	50% of the fee charged in WAC 173-400-116 (2)(b)

(4) **Small business fee reduction.** The new source review fee identified in subsections (2) and (3) of this section may be reduced for a small business.

(a) To qualify for the small business new source review fee reduction, a business must meet the requirements of "small business" as defined in RCW 19.85.020. In RCW 19.85.020, "small business" means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, that has the purpose of making a profit, and that has fifty or fewer employees.

(b) To receive a fee reduction, the owner or operator of a small business must include information in the application demonstrating that the conditions of (a) of this subsection have been met. The application must be signed:

(i) By an authorized corporate officer in the case of a corporation;

(ii) By an authorized partner in the case of a limited or general partnership; or

(iii) By the proprietor in the case of a sole proprietorship.

(c) Ecology may verify the application information and if the owner or operator has made false statements, deny the fee reduction request and revoke previously granted fee reductions.

(d) For small businesses determined to be eligible under (a) of this subsection, the new source review fee shall be reduced to the greater of:

(i) Fifty percent of the new source review fee; or

(ii) Two hundred fifty dollars.

(e) If due to special economic circumstances, the fee reduction determined under (d) of this subsection imposes an extreme hardship on a small business, the small business may request an extreme hardship fee reduction. The owner or operator must provide sufficient evidence to support a claim of an extreme hardship. The factors which ecology may consider in determining whether an owner or operator has special economic circumstances and in setting the extreme hardship fee include: Annual sales; labor force size; market conditions which affect the owner's or operator's ability to pass the cost of the new source review fees through to customers; and average annual profits. In no case will a new source review fee be reduced below one hundred dollars.

(5) Fee reductions for pollution prevention initiatives. Ecology may reduce the fees defined in subsections (2) and (3) of this section where the owner or operator of the proposed source demonstrates that approved pollution prevention measures will be used.

(6) Fee payments. Fees specified in subsections (2) through (5) of this section shall be paid at the time a notice of

construction application is submitted to the department. A notice of construction application is considered incomplete until ecology has received the appropriate new source review payment. Additional charges assessed pursuant to subsection (3) of this section shall be due thirty days after receipt of an ecology billing statement. All fees collected under this regulation shall be made payable to the Washington department of ecology.

(7) Dedicated account. All new source review fees collected by the department shall be deposited in the air pollution control account.

(8) Tracking revenues, time, and expenditures. Ecology shall track revenues collected under this subsection on a source-specific basis. Ecology shall track time and expenditures on the basis of complexity categories.

(9) Periodic review. Ecology shall review and, as appropriate, update this section at least once every two years.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-116, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-116, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), § 173-400-116, filed 9/13/96, effective 10/14/96. Statutory Authority: RCW 70.94.153 and 70.94.154. 94-17-070, § 173-400-116, filed 8/15/94, effective 9/15/94.]

WAC 173-400-117 Special protection requirements for federal Class I areas. (1) **Definitions.** The following definitions apply to this section:

(a) **"Adverse impact on visibility"** means visibility impairment that interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairment, and how these factors correlate with:

(i) Times of visitor use of the federal Class I area; and

(ii) The frequency and timing of natural conditions that reduce visibility.

(b) The terms "major stationary source," "major modification," and "net emissions increase" are as provided in WAC 173-400-720.

(2) **Applicability.** The requirements of this section apply to all of the following permitting actions:

(a) A PSD permit application for a new major stationary source or a major modification; or

(b) Submittal of a notice of construction application for a major stationary source or a major modification to a stationary source in a nonattainment area, as either of those terms are defined in WAC 173-400-720.

(3) **Contents and distribution of application.**

(a) The application shall include an analysis of the anticipated impacts of the project on visibility in any federal Class I area.

(b) The applicant must mail a copy of the application for the project and all amendments to the application to the permitting authority, EPA and to the responsible federal land managers. Ecology will provide a list of the names and addresses of the federal land manager.

(4) Notice to federal land manager.

(a) The permitting authority shall send a copy of the completeness determination to the responsible federal land manager.

(b) If, prior to receiving a notice of construction application or a PSD permit application, the permitting authority receives notice of a project described in subsection (2) of this section that may affect visibility in a federal Class I area, the permitting authority shall notify the responsible federal land manager within thirty days of the notification.

(5) Analysis by federal land manager.

(a) The permitting authority will consider any demonstration presented by the responsible federal land manager that emissions from a proposed new major stationary source or the net emissions increase from a proposed major modification described in subsection (2) of this section would have an adverse impact on visibility in any federal Class I area, provided that the demonstration is received by the permitting authority within thirty days of the federal land manager's receipt of the complete application.

(b) If the permitting authority concurs with the federal land manager's demonstration, the PSD permit or approval order for the project either shall be denied, or conditions shall be included in the approval order to prevent the adverse impact.

(c) If the permitting authority finds that the federal land manager's analysis does not demonstrate that the project will have an adverse impact on visibility in a federal Class I area, the permitting authority either shall explain its decision in the public notice required by WAC 173-400-730, or, in the case of public notice of proposed action on a PSD permit application, state that an explanation of the decision appears in the Technical Support Document for the proposed permit.

(6) Additional requirements for projects that require a PSD permit.

(a) For sources impacting federal Class I areas, the permitting authority shall provide notice to EPA of every action related to consideration of the PSD permit.

(b) The permitting authority shall consider any demonstration received from the responsible federal land manager prior to the close of the public comment period on a proposed PSD permit that emissions from the proposed new major stationary source or the net emissions increase from a proposed major modification would have an adverse impact on the air quality-related values (including visibility) of any mandatory Class I federal area.

(c) If the permitting authority concurs with the demonstration, the PSD permit either shall be denied, or conditions shall be included in the PSD permit to prevent the adverse impact.

(7) Additional requirements for projects located in nonattainment areas. In reviewing a PSD permit application or notice of construction application for a new major stationary source or major modification proposed for construction in an area classified as nonattainment, the permitting authority must ensure that the source's emissions will be consistent with making reasonable progress toward meeting the national goal of preventing any future, and remedying any existing, impairment of visibility by human-caused air pollution in mandatory Class I federal areas. In determining the need for approval order conditions to meet this requirement,

the permitting authority may take into account the costs of compliance, the time necessary for compliance, the energy and nonair quality environmental impacts of compliance, and the useful life of the source.

(8) Monitoring. The permitting authority may require post-construction monitoring of the impact from the project. The monitoring shall be limited to the impacts on visibility in any federal Class I area near the proposed project.

[Statutory Authority: RCW 70.94.152, 05-03-033 (Order 03-07), § 173-400-117, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080, 01-17-062 (Order 99-06), § 173-400-117, filed 8/15/01, effective 9/15/01.]

WAC 173-400-118 Designation of Class I, II, and III areas. (1) Designation.

(a) Lands within the exterior boundaries of Indian reservations may be proposed for redesignation by an Indian governing body or EPA. This restriction does not apply to non-trust lands within the 1873 Survey Area of the Puyallup Indian Reservation.

(b) All areas of the state must be designated either Class I, II or III.

(i) The following areas are the Class I areas in Washington state:

- (A) Alpine Lakes Wilderness;
- (B) Glacier Peak Wilderness;
- (C) Goat Rocks Wilderness;
- (D) Adams Wilderness;
- (E) Mount Rainier National Park;
- (F) North Cascades National Park;
- (G) Olympic National Park;
- (H) Pasayten Wilderness; and
- (I) Spokane Indian Reservation.¹

(ii) All other areas of the state are Class II, but may be redesignated as provided in subsections (2) and (3) of this section.

¹ EPA redesignated this land based on a request from the Spokane Tribal Council. See 40 CFR 52.2497 and 56 FR 14862, April 12, 1991, for details.

(2) Restrictions on area classifications.

(a) Except for the Spokane Indian Reservation, the Class I areas listed in subsection (1) of this section may not be redesignated.

(b) Except as provided in (a) of this subsection, the following areas that exceed 10,000 acres in size may be redesignated as Class I or II:

(i) Areas in existence on August 7, 1977:

- (A) A national monument;
- (B) A national primitive area;
- (C) A national preserve;
- (D) A national wild and scenic river;
- (E) A national wildlife refuge;
- (F) A national lakeshore or seashore; or
- (G) A national recreation area.

(ii) Areas established after August 7, 1977:

- (A) A national park;
- (B) A national wilderness area; or
- (C) Areas proposed by ecology for designation or redesignation.

(3) Redesignation of area classifications.

(a) Ecology shall propose the redesignation of an area classification as a revision to the SIP.

(b) Ecology may submit to EPA a proposal to redesignate areas of the state as Class I or II if:

(i) Ecology followed the public involvement procedures in WAC 173-400-171;

(ii) Ecology explained the reasons for the proposed redesignation, including a description and analysis of the health, environmental, economic, social, and energy effects of the proposed redesignation;

(iii) Ecology made available for public inspection at least thirty days before the hearing the explanation of the reasons for the proposed redesignation;

(iv) Ecology notified other states, tribal governing bodies, and federal land managers (as defined in 40 CFR 52.21 (b)(24)) whose lands may be affected by the proposed redesignation at least thirty days prior to the public hearing;

(v) Ecology consulted with the elected leadership of local governments in the area covered by the proposed redesignation before proposing the redesignation; and

(vi) Ecology followed these procedures when a redesignation includes any federal lands:

(A) Ecology notified in writing the appropriate federal land manager on the proposed redesignation. Ecology allowed forty-five days for the federal land manager to confer with ecology and to submit written comments.

(B) Ecology responded to any written comments from the federal land manager that were received within forty-five days of notification. Ecology's response was available to the public in advance of the notice of the hearing.

(I) Ecology sent the written comments of the federal land manager, along with ecology's response to those comments, to the public location as required in WAC 173-400-171 (2)(a).

(II) If ecology disagreed with the federal land manager's written comments, ecology published a list of any inconsistency between the redesignation and the comments of the federal land manager, together with the reasons for making the redesignation against the recommendation of the federal land manager.

(c) Ecology may submit to EPA a proposal to redesignate any area other than an area to which subsection (1) of this section applies as Class III if:

(i) The redesignation followed the public involvement requirements of WAC 173-400-171 and 173-400-118(3);

(ii) The redesignation has been specifically approved by the governor of Washington state, after consultation with the appropriate committees of the legislature if it is in session, or with the leadership of the legislature, if it is not in session;

(iii) The redesignation has been approved by local governments representing a majority of the residents of the area to be redesignated. The local governments enacted legislation or passed resolutions concurring in the redesignation;

(iv) The redesignation would not cause, or contribute to, a concentration of any air contaminant which would exceed any maximum allowable increase permitted under the classification of any other area or any National Ambient Air Quality Standard; and

(v) A PSD permit under WAC 173-400-720 for a new major stationary source or major modification could be

issued only if the area in question were redesignated as Class III, and material submitted as part of that application was available for public inspection prior to any public hearing on redesignation of the area as Class III.

[Statutory Authority: RCW 70.94.152, 05-03-033 (Order 03-07), § 173-400-118, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080, 01-17-062 (Order 99-06), § 173-400-118, filed 8/15/01, effective 9/15/01.]

WAC 173-400-120 Bubble rules. (1) Applicability.

The owner(s) or operator(s) of any source(s) may apply for a bubble for any contaminant regulated by state or federal law for which the emission requirement may be stated as an allowable limit in weight of contaminant per unit time for the emissions units involved.

(2) Conditions. A bubble may be authorized provided the following conditions have been demonstrated to the satisfaction of the permitting authority.

(a) The contaminants exchanged must be of the same type, that is, PM₁₀ for PM₁₀, sulfur dioxide for sulfur dioxide, etc.

(b) The bubble will not interfere with the attainment and maintenance of air quality standards. No bubble shall be authorized in a nonattainment area unless there is an EPA-approved SIP which demonstrates attainment for that area.

(c) The bubble will not result in a delay in compliance by any source, nor a delay in any existing enforcement action.

(d) The bubble will not supersede NSPS, NESHAPS, BACT, or LAER. The emissions of hazardous contaminants shall not be increased.

(e) The bubble will not result in an increase in the sum of actual emission rates of the contaminant involved from the emissions units involved.

(f) A bubble may not be authorized only for opacity limits. However, if the emission limit for particulates for a given emissions unit is increased as part of a bubble, the opacity limit for the given emissions unit may be increased subject to the following limitations:

(i) The new opacity limit shall be specific for the given emissions unit;

(ii) The new opacity limit shall be consistent with the new particulates limit;

(iii) An opacity greater than sixty percent shall never be authorized;

(iv) If the given emissions unit emits or has the potential to emit one hundred tons per year or more of particulate matter, the opacity shall be monitored continuously.

(g) The emission limits of the bubble are equivalent to existing limits in enforceability.

(h) Concurrent with or prior to the authorization of a bubble, each emission unit involved in a bubble shall receive or have received a regulatory order or permit that establishes total allowable emissions from the source for the contaminant being bubbled, expressed as weight of the contaminant per unit time.

(i) There will be no net adverse impact upon air quality from the establishment of new emission requirements for a specific source or emissions unit. Determination of net adverse impact shall include but not be limited to public per-

ception of opacity and public perception of odorous contaminants.

(j) Specific situations may require additional demonstration as requested by the permitting authority.

(3) **Jurisdiction.** Whenever a bubble application involves emissions units, some of which are under the jurisdiction of an authority, approval will require concurrence by both authorities. The new emission limits for each emissions unit will be enforced by the authority of original jurisdiction.

(4) **Additional information.** Within thirty days, after the receipt of a bubble application and all supporting data and documentation, the permitting authority may require the submission of additional information needed to review the application.

(5) **Approval.** Within thirty days after all the required information has been received, the permitting authority shall approve or deny the application, based on a finding that conditions in subsection (2)(a) through (j) of this section have been satisfied or not. If the application is approved, a regulatory order or equivalent document shall be issued which includes new allowable emissions limits expressed in weight of pollutant per unit time for each emissions unit affected by the bubble. The regulatory order or equivalent document shall include any conditions required to assure that subsection (2)(a) through (j) of this section will be satisfied. If the bubble depends in whole or in part upon the shutdown of equipment, the regulatory order or equivalent document must prohibit operation of the affected equipment. The regulatory order establishing the bubble is subject to the public involvement requirements of WAC 173-400-171.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-120, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), § 173-400-120, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-120, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 43.21A and 70.94 RCW. 89-02-055 (Order 88-39), § 173-400-120, filed 1/3/89; 83-09-036 (Order DE 83-13), § 173-400-120, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-120, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-120, filed 5/8/79; Order DE 76-38, § 173-400-120, filed 12/21/76. Formerly WAC 18-04-120.]

WAC 173-400-131 Issuance of emission reduction credits. (1) **Applicability.** The owner or operator of any source may apply to the permitting authority for an emission reduction credit (ERC) if the source proposes to reduce its actual emissions rate for any contaminant regulated by state or federal law for which the emission requirement may be stated as an allowable limit in weight of contaminant per unit time for the emissions units involved.

(2) **Time of application.** The application for an ERC must be made prior to or within one hundred eighty days after the emission reduction has been accomplished.

(3) **Conditions.** An ERC may be authorized provided the following conditions have been demonstrated to the satisfaction of the permitting authority.

(a) The quantity of emissions in the ERC shall be less than or equal to the old allowable emissions rate or the old actual emissions rate, whichever is the lesser, minus the new allowable emissions rate.

(b) The ERC application must include a description of all the changes that are required to accomplish the claimed emis-

sions reduction, such as, new control equipment, process modifications, limitation of hours of operation, permanent shutdown of equipment, specified control practices, etc.

(c) The ERC must be large enough to be readily quantifiable relative to the source strength of the emissions unit(s) involved.

(d) No part of the emission reductions claimed for credit shall have been used as part of a determination of net emission increase, nor as part of an offsetting transaction under WAC 173-400-112 (2)(d), nor as part of a bubble transaction under WAC 173-400-120, nor to satisfy NSPS, NESHAPS, for Source Categories, BACT, or LAER.

(e) Concurrent with or prior to the authorization of an ERC, the applicant shall receive (have received) a regulatory order or permit that establishes total allowable emissions from the source or emissions unit of the contaminant for which the ERC is requested, expressed as weight of contaminant per unit time.

(f) The use of any ERC shall be consistent with all other federal, state, and local requirements of the program in which it is used.

(4) **Additional information.** Within thirty days after the receipt of an ERC application and all supporting data and documentation, the permitting authority may require the submission of additional information needed to review the application.

(5) **Approval.** Within thirty days after all required information has been received, the permitting authority shall approve or deny the application, based on a finding that conditions in subsection (3)(a) through (e) of this section have been satisfied or not. If the application is approved, the permitting authority shall:

(a) Issue a regulatory order or equivalent document to assure that the emissions from the source will not exceed the allowable emission rates claimed in the ERC application, expressed in weight of pollutant per unit time for each emission unit involved. The regulatory order or equivalent document shall include any conditions required to assure that subsection (3)(a) through (e) of this section will be satisfied. If the ERC depends in whole or in part upon the shutdown of equipment, the regulatory order or equivalent document must prohibit operation of the affected equipment; and

(b) Issue a certificate of emission reduction credit. The certificate shall specify the issue date, the contaminants involved, the emission decrease expressed as weight of pollutant per unit time, the nonattainment area involved, if applicable, and the person to whom the certificate is issued.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-131, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-131, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), § 173-400-131, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-131, filed 2/19/91, effective 3/22/91.]

WAC 173-400-136 Use of emission reduction credits (ERC). (1) **Permissible use.** An ERC may be used to satisfy the requirements for authorization of a bubble under WAC 173-400-120; as a part of a determination of "net emissions increase;" or as an offsetting reduction to satisfy the requirements for new source review in WAC 173-400-112 or 173-400-113(3).

(2) **Surrender of ERC certificate.** When an ERC is used under subsection (1) of this section, the certificate for the ERC must be surrendered to the permitting authority. If only a portion of the ERC is used, the amended certificate will be returned to the owner.

(3) **Conditions of use.**

(a) An ERC may be used only for the air contaminants for which it was issued.

(b) The permitting authority may impose additional conditions of use to account for temporal and spatial differences between the emissions units that generated the ERC and the emissions units that use the ERC.

(4) **Sale of an ERC.** An ERC may be sold or otherwise transferred to a person other than the person to whom it was originally issued. Within thirty days after the transfer of ownership, the certificate must be surrendered to the issuing authority. After receiving the certificate, the issuing authority shall reissue the certificate to the new owner.

(5) **Redemption period.** An unused ERC expires ten years after date of original issue.

(6) **Discount due to change in SIP.** If reductions in emissions beyond those identified in the SIP are required to meet an ambient air quality standard, if the standard cannot be met through controls on operating sources, and if the plan must be revised, an ERC may be discounted by the permitting authority after public involvement according to WAC 173-400-171. This discount shall not exceed the percentage of additional emission reduction needed to reach attainment.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-136, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-136, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), § 173-400-136, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-136, filed 2/19/91, effective 3/22/91.]

WAC 173-400-151 Retrofit requirements for visibility protection. (1) The requirements of this section apply to an existing stationary facility. An "existing stationary facility" means a stationary source of air contaminants that meets all of these conditions:

(a) The stationary source must have the potential to emit 250 tons per year or more of any air contaminant. Fugitive emissions, to the extent quantifiable, must be counted in determining the potential to emit; and

(b) The stationary source was not in operation prior to August 7, 1962, and was in existence on August 7, 1977; and

(c) Is in one of the following 26 source categories:

Fossil-fuel fired steam electric plants of more than 250 million British thermal units per hour heat input,	Coke oven batteries,
Coal cleaning plants (thermal dryers),	Sulfur recovery plants,
Kraft pulp mills,	Carbon black plants (furnace process),
Portland cement plants,	Primary lead smelters,
Primary zinc smelters,	Fuel conversion plants,
Iron and steel mill plants,	Sintering plants,
Primary aluminum ore reduction plants,	Secondary metal production facilities,

Primary copper smelters,	Chemical process plants,
Municipal incinerators capable of charging more than 250 tons of refuse per day,	Fossil-fuel boilers of more than 250 million British thermal units per hour heat input,
Hydrofluoric, sulfuric, and nitric acid plants,	Petroleum storage and transfer facilities with a capacity exceeding 300,000 barrels,
Petroleum refineries,	Taconite ore processing facilities,
Lime plants,	Glass fiber processing plants, and
Phosphate rock processing plants,	Charcoal production facilities.

(d) For purposes of determining whether a stationary source is an existing stationary facility, the term "building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same major group (i.e., which have the same two digit code) as described in the *Standard Industrial Classification Manual, 1972*, as amended in the 1977 supplement.

(2) Ecology shall identify each existing stationary facility which may reasonably be anticipated to cause or contribute to visibility impairment in any mandatory Class 1 federal area in Washington and any adjacent state.

(3) For each existing stationary facility identified under subsection (2) of this section, ecology, in consultation with the permitting authority shall determine BART for each air contaminant of concern and any additional air pollution control technologies that are to be required to reduce impairment from the existing stationary facility.

(4) Each existing stationary facility shall apply BART as new technology for control of the air contaminant becomes reasonably available if:

(a) The existing stationary facility emits the air contaminant contributing to visibility impairment;

(b) Controls representing BART for that air contaminant have not previously been required under this section; and

(c) The impairment of visibility in any mandatory Class 1 federal area is reasonably attributable to the emissions of the air contaminant.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-151, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-151, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), § 173-400-151, filed 2/19/91, effective 3/22/91.]

WAC 173-400-171 Public involvement. (1) Internet notification of receipt of an application.

(a) For applications and actions not subject to a mandatory public notice and comment period per subsection (2)(a) of this section, the permitting authority will either:

(i) Post on the permitting authority's internet web site an announcement of the receipt of notice of construction applications and other proposed actions; or

(ii) Follow the public involvement process found in subsection (3) of this section.

(b) For internet notification, notice shall remain on the permitting authority's web site for a minimum of fifteen consecutive days. The internet posting shall include notice of the receipt of the application, the type of proposed action, and a statement that the public may request a public comment period on the proposed action.

(c) Requests for a public comment period shall be submitted to the permitting authority in writing via letter, fax, or electronic mail within fifteen days of its internet posting. A public notice and comment period shall be provided pursuant to subsections (3) and (4) of this section for any application or proposed action that receives such a request. Any application or proposed action for which a public comment period is not requested may be processed without further public involvement at the end of the fifteen-day comment period.

(d) Any application or proposed action that automatically requires a public comment period pursuant to subsection (2) of this section or for which the agency proposes to have a public comment period does not have to be announced on the permitting authorities' internet web site.

(2) Actions subject to public notice and comment.

(a) The permitting authority must provide public notice and a public comment period before approving or denying any of the following types of applications or other actions:

(i) Notice of construction application for any new or modified source, including the initial application for operation of a portable source, if an increase in emissions of any air pollutant at a rate above the emission threshold rate (defined in WAC 173-400-030) or any increase in a pollutant regulated under chapter 173-460 WAC which will increase above the small quantity emission rate listed in WAC 173-460-080 (2)(e) would result; or

(ii) Any use of a modified or substituted air quality model, other than a guideline model in Appendix W of 40 CFR Part 51 (in effect on July 1, 2004) as part of review under WAC 173-400-110, 173-400-112, 173-400-113, 173-400-117, or 173-400-720; or

(iii) Any order to determine RACT; or

(iv) An order to establish a compliance schedule or a variance; or

(v) An order to demonstrate the creditable height of a stack which exceeds the GEP formula height and sixty-five meters, by means of a fluid model or a field study, for the purposes of establishing an emission limitation; or

(vi) An order to authorize a bubble; or

(vii) Any action to discount the value of an ERC issued to a source per WAC 173-400-136(6); or

(viii) Any regulatory order to establish BART for an existing stationary facility; or

(ix) Notice of construction application or regulatory order used to establish a creditable emission reduction; or

(x) An order issued under WAC 173-400-091 that establishes limitations on a source's potential to emit; or

(xi) The original issuance and the issuance of all revisions to a general order of approval issued under WAC 173-400-560; or

(xii) Any extension of the deadline to begin actual construction of a "major stationary source" or "major modification" in a nonattainment area; or

(xiii) Exception. PSD actions, including actions taken to avoid PSD applicability, under WAC 173-400-730 and 173-400-740 are not required to follow the procedures in this section. The public involvement for these projects shall follow the procedures in WAC 173-400-730(4) and 173-400-740.

(b) Ecology must provide notice on the following ecology only actions:

(i) A Washington state recommendation that will be submitted by the director of ecology to EPA for approval of a SIP revision, including plans for attainment, maintenance, and visibility protection; or

(ii) A Washington state recommendation to EPA for designation or redesignation of an area as attainment, nonattainment, or unclassifiable; or

(iii) A Washington state recommendation to EPA for a change of boundaries of an attainment or nonattainment area; or

(iv) A Washington state recommendation to EPA for redesignation of an area under WAC 173-400-118.

(c) The permitting authority will provide public notice before approving or denying any application or other action for which the permitting authority determines there is substantial public interest.

(d) A notice of construction application designated for integrated review with an application to issue or modify an operating permit shall be processed in accordance with the operating permit program procedures and deadlines. A project designated for integrated review that includes a notice of construction application for a major modification in a nonattainment area, or a notice of construction application for a major stationary source in a nonattainment area must also comply with public notice requirements in this section. A project designated for integrated review that includes a PSD permit application must also comply with the requirements in WAC 173-400-730 and 173-400-740.

(3) Public notice. Public notice shall be made only after all information required by the permitting authority has been submitted and after applicable preliminary determinations, if any, have been made. The applicant or other initiator of the action must pay the cost of providing public notice. Public notice shall include:

(a) Availability for public inspection. The information submitted by the applicant, and any applicable preliminary determinations, including analyses of the effects on air quality, must be available for public inspection in at least one location near the proposed project. Exemptions from this requirement include information protected from disclosure under any applicable law, including, but not limited to, RCW 70.94.205 and chapter 173-03 WAC.

(i) For a redesignation of a class II area under WAC 173-400-118, ecology must make available for public inspection at least thirty days before the hearing the explanation of the reasons for the proposed redesignation.

(ii) For a revision of the SIP subject to subsection (2)(b)(iii) of this section, ecology must make available for public inspection the information related to the action at least thirty days before the hearing.

(b) Newspaper publication. Public notice of the proposed project must be published in a newspaper of general circulation in the area of the proposed project and must include:

(i) The name and address of the owner or operator and the facility;

(ii) A brief description of the proposal;

(iii) The location of the documents made available for public inspection;

(iv) A thirty-day period for submitting written comment to the permitting authority;

(v) A statement that a public hearing may be held if the permitting authority determines within a thirty-day period that significant public interest exists or for those actions listed in WAC 173-400-171 (5)(b) with a mandatory public hearing requirement, the time, date, and location of the public hearing.

(vi) The length of the public comment period in the event of a public hearing;

(vii) For projects subject to special protection requirements for federal Class I areas in WAC 173-400-117 (5)(c), public notice shall either explain the permitting authority's decision or state that an explanation of the decision appears in the support document for the proposed order of approval; and

(viii) For a redesignation of an area under WAC 173-400-118, public notice shall state that an explanation of the reasons for the proposed redesignation is available for review at the public location.

(c) Notifying EPA. A copy of the public notice will be sent to the EPA Region 10 regional administrator.

(d) Additional public notice requirements for a SIP revision. For a revision to the SIP that is submitted by the director of ecology, ecology must publish the public notice required by subsection (3)(b) of this section in the *Washington State Register* in advance of the date of the public hearing.

(4) Public comment.

(a) The public comment period must be at least the thirty-day period for written comment specified in the public notice.

(b) If a public hearing is held, the public comment period must extend through the hearing date.

(c) The permitting authority shall make no final decision on any application or action of any type described in subsection (1) of this section until the public comment period has ended and any comments received during the public comment period have been considered.

(5) Public hearings.

(a) The applicant, any interested governmental entity, any group, or any person may request a public hearing within the thirty-day public comment period. A request must indicate the interest of the entity filing it and why a hearing is warranted. The permitting authority may hold a public hearing if it determines significant public interest exists. The permitting authority will determine the location, date, and time of the public hearing.

(b) Ecology must hold a hearing on the following ecology only actions:

(i) A Washington state recommendation to EPA that will be submitted by the director of ecology for approval of a SIP revision;

(ii) A Washington state recommendation to EPA for a change of boundaries of an attainment or nonattainment area;

(iii) A Washington state recommendation to EPA for designation of an area as attainment, nonattainment, or unclassifiable; and

(iv) A Washington state recommendation to EPA to redesignate an area under WAC 173-400-118.

(c) Ecology must provide at least thirty days prior notice of a hearing required under subsection (4)(b) of this section.

(6) Other requirements of law. Whenever procedures permitted or mandated by law will accomplish the objectives of public notice and opportunity for comment, those procedures may be used in lieu of the provisions of this section.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-171, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-171, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW. 95-07-126 (Order 93-40), § 173-400-171, filed 3/22/95, effective 4/22/95; 93-18-007 (Order 93-03), § 173-400-171, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-171, filed 2/19/91, effective 3/22/91.]

WAC 173-400-175 Public information. All information, except information protected from disclosure under any applicable law, including, but not limited to, RCW 70.94.205, is available for public inspection at the issuing agency. This includes copies of notice of construction applications, orders, and applications to modify orders.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-175, filed 1/10/05, effective 2/10/05.]

WAC 173-400-200 Creditable stack height and dispersion techniques. (1) Applicability. These provisions shall apply to all sources except:

(a) Stacks for which construction had commenced on or before December 31, 1970, except where pollutants are being emitted from such stacks used by sources which were constructed, or reconstructed, or for which major modifications were carried out after December 31, 1970;

(b) Coal-fired steam electric generating units subject to the provisions of Section 118 of the Federal Clean Air Act, which commenced operation before July 1, 1957, and for whose stacks construction commenced before February 8, 1974;

(c) Flares;

(d) Outdoor burning for agricultural or silvicultural purposes as covered under the smoke management plan;

(e) Residential wood combustion and open burning for which episodic restrictions apply.

These provisions shall not be construed to limit the actual stack height.

(2) Prohibitions. No source may use dispersion techniques or excess stack height to meet ambient air quality standards or PSD increment limitations.

(a) Excess stack height. Excess stack height is that portion of a stack which exceeds the greater of:

(i) Sixty-five meters, measured from the ground level elevation at the base of the stack; or

(ii) $H_g = H + 1.5L$

where: H_g = "good engineering practice" (GEP) stack height, measured from the ground level elevation at the base of the stack,

H = height of nearby structure(s) measured from the ground level elevation at the base of the stack,

L = lesser dimension, height or projected width, of nearby structure(s), subject to the proviso below.

"Nearby," as used in this subsection for purposes of applying the GEP formula means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 kilometer (1/2 mile).

(b) Dispersion techniques. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. This does not include:

(i) The reheating of a gas stream, following the use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

(ii) The merging of gas streams where:

(A) The source was originally designed and constructed with such merged gas streams, as demonstrated by the source owner(s) or operator(s).

(B) Such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion shall apply only to the emission limitation for the pollutant affected by such change in operation.

(C) Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons, and not primarily motivated by an intent to gain emissions credit for greater dispersion.

(3) Exception. EPA, ecology, or a permitting authority may require the use of a field study or fluid model to verify the creditable stack height for the source. This also applies to a source seeking credit after the effective date of this rule for an increase in existing stack height up to that established by the GEP formula. A fluid model or field study shall be performed according to the procedures described in the EPA Guideline for Determination of Good Engineering Practice Height (Technical Support Document of the Stack Height Regulations). The creditable height demonstrated by a fluid model or field study shall ensure that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures or nearby terrain features.

(a) "Nearby," as used in this subsection for conducting a field study or fluid model, means not greater than 0.8 km, except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to ten times the maximum height of the feature, not to exceed two miles if such feature achieves a height 0.8 km from the stack that is at least forty percent of the GEP stack height or twenty-six meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

(b) "Excessive concentration" is defined for the purpose of determining creditable stack height under this subsection and means a maximum ground-level concentration owing to a significant downwash effect which contributes to excursion over an ambient air quality standard. For sources subject to

PSD review (WAC 173-400-720 and 40 CFR 52.21) an excessive concentration alternatively means a maximum ground-level concentration owing to a significant downwash effect which contributes to excursion over a PSD increment. The emission rate used in this demonstration shall be the emission rate specified in the state implementation plan, or in the absence of such, the actual emission rate of the source. "Significant downwash effect" means a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least forty percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-200, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), § 173-400-200, filed 2/19/91, effective 3/22/91.]

WAC 173-400-560 General order of approval. In lieu of filing a notice of construction application under WAC 173-400-110, the owner or operator may apply for coverage under a general order of approval issued under this section. Coverage under a general order of approval satisfies the requirement for new source review under RCW 70.94.152.

(1) **Issuance of general orders of approval.** A permitting authority may issue a general order of approval applicable to a specific type of emission unit or source, not including nonroad engines as defined in section 216 of the Federal Clean Air Act, subject to the conditions in this section. A general order of approval shall identify criteria by which an emission unit or source may qualify for coverage under the associated general order of approval and shall include terms and conditions under which the owner or operator agrees to install and/or operate the covered emission unit or source. At a minimum, these terms and conditions shall include:

(a) Applicable emissions limitations and/or control requirements;

(b) Best available control technology;

(c) Appropriate operational restrictions, such as:

(i) Criteria related to the physical size of the unit(s) covered;

(ii) Criteria related to raw materials and fuels used;

(iii) Criteria related to allowed or prohibited locations; and

(iv) Other similar criteria determined by a permitting authority;

(d) Monitoring, reporting and recordkeeping requirements to ensure compliance with the applicable emission limits and control requirements;

(e) Appropriate initial and periodic emission testing requirements;

(f) Compliance with chapter 173-460 WAC, and WAC 173-400-112 (2)(c) or 173-400-113(3) as applicable;

(g) Compliance with 40 CFR Parts 60, 61, 62, and 63; and

(h) The application and approval process to obtain coverage under the specific general order of approval.

(2) **Public comment.** A permitting authority shall provide an opportunity for public comment on a proposed new

general order of approval or modification of an existing general order of approval in accordance with WAC 173-400-171.

(3) **Modification of general orders of approval.** A permitting authority may review and modify a general order of approval at any time. Only the permitting authority that issued a general order of approval may modify that general order of approval. Modifications to general orders of approval shall follow the procedures of this regulation and shall only take effect prospectively.

(4) **Application for coverage under a general order of approval.**

(a) In lieu of applying for an individual order of approval under WAC 173-400-110, an owner or operator of an emission unit or source may apply for and receive coverage from a permitting authority under a general order of approval if:

(i) The owner or operator of the emission unit or source applies for coverage under a general order of approval in accordance with this regulation and any conditions of the approval related to application for and granting coverage under the general order of approval;

(ii) The emission unit or source meets all the qualifications listed in the requested general order of approval;

(iii) The requested emission unit or source is not part of a new major stationary source or major modification subject to the requirements of WAC 173-400-112 or 173-400-720; and

(iv) The requested emission unit or source does not trigger applicability of the operating permit program under chapter 173-401 WAC or trigger a required modification of an existing operating permit.

(b) Owners or operators of emission units or sources applying for coverage under a general order of approval shall do so using the forms supplied by a permitting authority and include the required fee. The application must include all information necessary to determine qualification for, and to assure compliance with, a general order of approval.

(c) An application shall be incomplete until a permitting authority has received any required fees.

(d) The owner or operator of a new source or modification of an existing source that qualifies for coverage under a general order of approval may not begin actual construction of the new source or modification until its application for coverage has been approved or accepted under the procedures established in subsection (5) of this section.

(5) **Processing applications for coverage under a general order of approval.** Each general order of approval shall include a section on how an applicant is to request coverage and how the permitting authority will grant coverage. The section of the general order of approval will include either the method in (a) or (b) of this subsection to describe the process for the applicant to be granted coverage.

(a) Within thirty days of receipt of an application for coverage under a general order of approval, the permitting authority shall notify an applicant in writing that the application is incomplete, approved, or denied. If an application is incomplete, the permitting authority shall notify an applicant of the information needed to complete the application. If an application is denied, the permitting authority shall notify an applicant of the reasons why the application is denied. Coverage under a general order of approval is effective as of the date of issuance of approval by the permitting authority.

(b) The applicant is approved for coverage under the general order of approval thirty-one days after an application for coverage is received by the permitting authority, unless the owner or operator receives a letter from the permitting authority, postmarked within thirty days of when the application for coverage was received by the permitting authority, notifying the owner or operator that the emissions unit or source does not qualify for coverage under the general order of approval. The letter denying coverage shall notify the applicant of the disqualification and the reasons why coverage is denied.

(6) **Termination of coverage under a general order of approval.** An owner or operator who has received approval of an application for coverage under a general order of approval may later request to be excluded from coverage under that general order of approval by applying to the same permitting authority for an individual order of approval, under WAC 173-400-110, or for coverage under another general order of approval. If the same permitting authority issues an individual order of approval or other permit or order serving the same purpose as the original general order of approval, or approves coverage under a different general order of approval, coverage under the original general order of approval is automatically terminated, effective on the effective date of the individual order of approval, order or permit or new general order of approval.

(7) **Failure to qualify or comply.** An owner or operator who requests and is granted approval for coverage under a general order of approval shall be subject to enforcement action for establishment of a new source in violation of WAC 173-400-110 a decision to grant coverage under a general order of approval was based upon erroneous information submitted by the applicant.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-560, filed 1/10/05, effective 2/10/05.]

WAC 173-400-700 Review of major stationary sources of air pollution. (1) The following sections are to be used by ecology when reviewing and permitting new major stationary sources and major modifications to major stationary sources located in attainment or unclassified areas in Washington.

(2) WAC 173-400-700 through 173-400-750 apply statewide except:

(a) Where the authority has received delegation of the federal PSD program from EPA or has a SIP approved PSD program.

(b) To projects under the jurisdiction of the energy facility site evaluation council site certification process pursuant to chapter 80.50 RCW.

(c) Applications or requests to designate an emissions unit as a Clean Unit under 40 CFR 52.21(y), to permit a Pollution Control Project under 40 CFR 52.21 (z)(5), or to establish an actual Plantwide Applicability Limit under 40 CFR 52.21(aa) shall be processed by the authority where the authority has received delegation from EPA to administer the relevant alternative PSD applicability tests.

(3) The construction of a major stationary source or major modification subject to the permitting requirements of the following section might also be subject to the permitting program in WAC 173-400-110.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-700, filed 1/10/05, effective 2/10/05.]

WAC 173-400-710 Definitions. (1) The definitions in WAC 173-400-030 are to be used in WAC 173-400-700 through 173-400-750 unless:

(a) A term is defined differently in WAC 173-400-710 for use in the major source permitting requirements in WAC 173-400-700 through 173-400-750; or

(b) A term is defined differently in the federal program requirements adopted by reference in WAC 173-400-720.

(2) All usage of the term "source" in WAC 173-400-710 through 173-400-750 and in 40 CFR 52.21 as adopted by reference is to be interpreted to mean "stationary source" as defined in 40 CFR 52.21 (b)(5) as modified by section 302(z) of the Federal Clean Air Act. A stationary source (or source) does not include emissions resulting directly from an internal combustion engine for transportation purposes from a non-road engine or nonroad vehicle as defined in section 216 of the Federal Clean Air Act.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-710, filed 1/10/05, effective 2/10/05.]

WAC 173-400-720 Prevention of significant deterioration (PSD). (1) No major stationary source or major modification to which the requirements of this section apply shall begin actual construction without having received a PSD permit.

(2) **Early planning encouraged.** In order to develop an appropriate application, the source should engage in an early planning process to assess the needs of the facility. An opportunity for a preapplication meeting with ecology is available to any potential applicant.

(3) **Enforcement.** Ecology or the permitting authority with jurisdiction over the source under chapter 173-401 WAC, the Operating permit regulation, shall:

(a) Receive all reports required in the PSD permit;

(b) Enforce the requirement to apply for a PSD permit when one is required; and

(c) Enforce the conditions in the PSD permit.

(4) **Applicable requirements.**

(a) A PSD permit must assure compliance with the following requirements:

(i) Allowable emissions from the proposed major stationary source or major modification will not delay the attainment date for an area not in attainment nor cause or contribute to a violation of any ambient air quality standard. This requirement will be considered to be met if the projected impact of the allowable emissions from the proposed major stationary source or the projected impact of the increase in allowable emissions from the proposed major modification at any location within a nonattainment area does not exceed the following levels for the pollutants for which the area has been designated nonattainment:

Pollutant	Annual Average	24-Hour Average	8-Hour Average	3-Hour Average	1-Hour Average
CO-	-	-	0.5 mg/m ³	-	2 mg/m ³
SO ₂	1.0 µg/m ³	5 µg/m ³	-	25 µg/m ³	30 µg/m ³
PM ₁₀	1.0 µg/m ³	5 µg/m ³	-	-	-
NO ₂	1.0 µg/m ³	-	-	-	-

An offsetting emission reduction may be used to satisfy some or all of the requirements of this subsection.

(ii) WAC 173-400-117 - Special protection requirements for federal Class I areas;

(iii) WAC 173-400-730 - Prevention of significant deterioration application processing;

(iv) WAC 173-400-740 - Prevention of significant deterioration public involvement requirements; and

(v) The following subparts of 40 CFR 52.21, in effect on July 2, 2004, which are adopted by reference. Exceptions are listed in (b)(i), (ii), and (iii) of this subsection:

Section	Title
40 CFR 52.21(a)(2)	Applicability Procedures.
40 CFR 52.21 (b)	Definitions.
40 CFR 52.21 (c)	Ambient air increments.
40 CFR 52.21 (d)	Ambient air ceilings.
40 CFR 52.21 (h)	Stack heights.
40 CFR 52.21 (i)	Review of major stationary sources and major modifications - source applicability and exemptions.
40 CFR 52.21 (j)	Control technology review.
40 CFR 52.21 (k)	Source impact analysis.
40 CFR 52.21 (l)	Air quality models.
40 CFR 52.21 (m)	Air quality analysis.
40 CFR 52.21 (n)	Source information.
40 CFR 52.21 (o)	Additional impact analysis.
40 CFR 52.21 (r)	Source obligation.
40 CFR 52.21 (v)	Innovative control technology.
40 CFR 52.21 (w)	Permit rescission.
40 CFR 52.21 (x)	Clean unit test for emission units subject to BACT or LAER.
40 CFR 52.21 (y)	Clean unit test for emission units that achieve an emission limitation comparable to BACT.
40 CFR 52.21 (z)	Pollution Control Project exclusion.
40 CFR 52.21 (aa)	Actuals Plantwide Applicability Limitation.
40 CFR 52.21 (bb)	Severability clause.
40 CFR 52.21 (cc)	Equipment replacement provisions.

(b) Exceptions to adopting 40 CFR 52.21 by reference.

(i) Every use of the word "administrator" in 40 CFR 52.21 means ecology except for the following:

(A) In 40 CFR 52.21 (b)(17), the definition of federally enforceable, "administrator" means the EPA administrator.

(B) In 40 CFR 52.21 (l)(2), air quality models, "administrator" means the EPA administrator.

(C) In 40 CFR 52.21 (b)(43) the definition of prevention of significant deterioration program, "administrator" means the EPA administrator.

(D) In 40 CFR 52.21 (b)(48)(ii)(c) related to regulations promulgated by the administrator, "administrator" means the EPA administrator.

(E) In 40 CFR 52.21 (b)(50)(i) related to the definition of a regulated NSR pollutant, "administrator" means the EPA administrator.

(ii) Each reference in 40 CFR 52.21(i) to "paragraphs (j) through (r) of this section" is amended to state "paragraphs (j) through (o) of this section, paragraph (r) of this section, WAC 173-400-117, 173-400-720, and 173-400-730."

(iii) The following paragraphs replace the designated paragraphs of 40 CFR 52.21:

(A) In 40 CFR 52.21 (b)(1)(i)(a) and (b)(1)(iii)(h), the size threshold for municipal waste incinerators is changed to 50 tons of refuse per day.

(B) 40 CFR 52.21 (b)(23)(i) After the entry for municipal solid waste landfills emissions, add Ozone Depleting Substances: 100 tpy.

(C) 40 CFR 52.21 (r)(6) "The provisions of this paragraph (r)(6) apply to projects at an existing emissions unit at a major stationary source (other than projects at a Clean Unit or at a source with a PAL) in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase and the owner or operator elects to use the method specified in paragraphs 40 CFR 52.21 (b)(41)(ii)(a) through (c) for calculating projected actual emissions.

(i) Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:

(A) A description of the project;

(B) Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and

(C) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under paragraph 40 CFR 52.21 (b)(41)(ii)(c) and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(ii) The owner or operator shall submit a copy of the information set out in paragraph 40 CFR 52.21 (r)(6)(i) to the permitting authority before beginning actual construction. This information may be submitted in conjunction with any NOC application required under the provisions of WAC 173-400-110. Nothing in this paragraph (r)(6)(ii) shall be construed to require the owner or operator of such a unit to obtain any PSD determination from the permitting authority before beginning actual construction.

(iii) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in paragraph 40 CFR 52.21 (r)(6)(i)(b); and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity of or potential to emit that regulated NSR pollutant at such emissions unit.

(iv) The owner or operator shall submit a report to the permitting authority within 60 days after the end of each year during which records must be generated under paragraph 40

CFR 52.21 (r)(6)(iii) setting out the unit's annual emissions during the calendar year that preceded submission of the report.

(v) The owner or operator shall submit a report to the permitting authority if the annual emissions, in tons per year, from the project identified in paragraph 40 CFR 52.21 (r)(6)(i), exceed the baseline actual emissions (as documented and maintained pursuant to paragraph 40 CFR 52.21 (r)(6)(i)(c)), by a significant amount (as defined in paragraph 40 CFR 52.21 (b)(23)) for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to paragraph 40 CFR 52.21 (r)(6)(i)(c). Such report shall be submitted to the permitting authority within 60 days after the end of such year. The report shall contain the following:

(a) The name, address and telephone number of the major stationary source;

(b) The annual emissions as calculated pursuant to paragraph (r)(6)(iii) of this section; and

(c) Any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection)."

(D) 40 CFR 52.21 (r)(7) The owner or operator of the source shall submit the information required to be documented and maintained pursuant to paragraphs 40 CFR 52.21 (r)(6)(iv) and (v) annually within 60 days after the anniversary date of the original analysis. The original analysis and annual reviews shall also be available for review upon a request for inspection by the permitting authority or the general public pursuant to the requirements contained in 40 CFR 70.4 (b)(3)(viii).

(E) 40 CFR 52.21 (y)(7) Procedures for designating emissions units as Clean Units. Ecology shall designate an emissions unit a Clean Unit only by issuing a regulatory order issued under the authority of WAC 173-400-091 or (when requested by the applicant as part of its NOC application) in an order of approval issued under WAC 173-400-110, including requirements for public notice of the proposed Clean Unit designation and opportunity for public comment and when WAC 173-400-091 is used to designate a Clean Unit, a demonstration that the ambient air quality impact limitations of WAC 173-400-113 (1) through (3) will be required. Such permit must also meet the requirements in paragraph 40 CFR 52.21 (y)(8).

(F) 40 CFR 52.21 (z)(5) Permit process for unlisted projects. Before an owner or operator may begin actual construction of a PCP project that is not listed in paragraphs 40 CFR 52.21 (b)(32)(i) through (vi), the project must be approved by ecology and included in an order of approval issued by ecology pursuant to the requirements in WAC 173-400-110, and/or WAC 173-400-091, following opportunity for public comment as provided for in those sections. When WAC 173-400-091 is used to approve a PCP, a demonstration that the ambient air quality impact limitations of WAC 173-400-112(2) and/or WAC 173-400-113 (1) through (3) will be required.

(G) 40 CFR 52.21 (z)(6)(iii) Permit requirements. The owner or operator must comply with any provisions in the order of approval or other order issued for the project related to use and approval of the PCP exclusion.

(H) 40 CFR 52.21 (aa)(2)(ix) PAL permit means the PSD permit, an ecology issued order of approval issued under WAC 173-400-110, or regulatory order issued under WAC 173-400-091 issued by ecology that establishes a PAL for a major stationary source.

(I) 40 CFR 52.21 (aa)(5) Public participation requirements for PALs. PALs for existing major stationary sources shall be established, renewed, or expired through the public participation process in WAC 173-400-171. A request to increase a PAL shall be processed in accordance with the application processing and public participation process in WAC 173-400-730 and 173-400-740.

(J) 40 CFR 52.21 (aa)(9)(i)(b) Ecology, after consultation with the permitting authority, shall decide whether and how the PAL allowable emissions will be distributed and issue a revised order, order of approval or PSD permit incorporating allowable limits for each emissions unit, or each group of emissions units, as ecology determines is appropriate.

(K) 40 CFR 52.21 (aa)(14) Reporting and notification requirements. The owner or operator shall submit semiannual monitoring reports and prompt deviation reports to the permitting authority in accordance with the requirements in chapter 173-401 WAC. The reports shall meet the requirements in paragraphs 40 CFR 52.21 (aa)(14)(i) through (iii).

(L) 40 CFR 52.21 (aa)(14)(ii) Deviation report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to WAC 173-401-615 (3)(b) and within the time limits prescribed shall satisfy this reporting requirement. The reports shall contain the information found at WAC 173-401-615(3).

[Statutory Authority: RCW 70.94.152, 05-03-033 (Order 03-07), § 173-400-720, filed 1/10/05, effective 2/10/05.]

WAC 173-400-730 Prevention of significant deterioration application processing procedures. (1) Application submittal.

(a) The applicant shall submit an application that provides complete information adequate for ecology to determine compliance with all PSD program requirements.

(b) The applicant shall submit complete copies of its PSD application or an application to increase a PAL, distributed in the following manner:

(i) Three copies to ecology: Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600.

(ii) One copy to each of the following federal land managers:

(A) U.S. Department of the Interior - National Park Service; and

(B) U.S. Department of Agriculture - U.S. Forest Service.

(iii) One copy to the permitting authority with authority over the source under chapter 173-401 WAC.

(iv) One copy to EPA.

(c) Application submittal and processing for requests for a Clean Unit designation under 40 CFR 52.21(y), a pollution control project exemption under 40 CFR 52.21(z) or the initial request, renewal or expiration of a PAL under 40 CFR

52.21(aa) shall be done as provided in WAC 173-400-720 (4)(b)(iii).

(2) Application processing.

(a) Completeness determination.

(i) Within thirty days after receiving a PSD permit application, ecology shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary to complete the application. Ecology may request additional information clarifying aspects of the application after it has been determined to be complete.

(ii) The effective date of the application is the date on which ecology notifies the applicant that the application is complete pursuant to (a)(i) of this subsection.

(iii) If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement action taken.

(iv) The permitting authority shall send a copy of the completeness determination to the responsible federal land manager.

(b) Preparation and issuance of the preliminary determination.

(i) When the application has been determined to be complete, ecology shall begin developing the preliminary determination to approve or deny the application.

(ii) Within one year after receipt of a complete application, ecology shall provide the applicant with a preliminary determination along with a technical support document and a public notice.

(c) Issuance of the final determination.

(i) Ecology shall make no final decision until the public comment period has ended and all comments received during the public comment period have been considered.

(ii) As expeditiously as possible after the close of the public comment period, or hearing if one is held, ecology shall prepare and issue the final determination.

(d) The effective date of a final determination is one of the following dates:

(i) If no comments on the preliminary determination were received, the date of issuance; or

(ii) If comments were received, thirty days after receipt of the final determination; or

(iii) A later date as specified within the PSD permit approval.

(3) PSD technical support document. Ecology shall develop a technical support document for each preliminary PSD determination. The preliminary technical support document will be updated prior to issuance of the final determination to reflect changes to the final determination based on comments received. The technical support document shall include the following information:

(a) A brief description of the major stationary source, major modification, or activity subject to review;

(b) The physical location, ownership, products and processes involved in the major stationary source or major modification subject to review;

(c) The type and quantity of pollutants proposed to be emitted into the air;

(d) A brief summary of the BACT options considered and the reasons why the selected BACT level of control was selected;

(e) A brief summary of the basis for the permit approval conditions;

(f) A statement on whether the emissions will or will not cause a state and national ambient air quality standard to be exceeded;

(g) The degree of increment consumption expected to result from the source or modification;

(h) An analysis of the impacts on air quality related values in federal Class I areas and other Class I areas affected by the project; and

(i) An analysis of the impacts of the proposed emissions on visibility in any federal Class I area following the requirements in WAC 173-400-117.

(4) **Appeals.** A PSD permit, any conditions contained in a PSD permit, or the denial of PSD permit may be appealed to the pollution control hearings board as provided in chapter 43.21B RCW. A PSD permit issued under the terms of a delegation agreement can be appealed to the EPA's environmental appeals board as provided in 40 CFR 124.13 and 40 CFR 124.19.

(5) Construction time limitations.

(a) Approval to construct or modify a major stationary source becomes invalid if construction is not commenced within eighteen months of the effective date of the approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The time period between construction of the approved phases of a phased construction project cannot be extended. Each phase must commence construction within eighteen months of the projected and approved commencement date.

(b) Ecology may extend the eighteen-month effective period of a PSD permit upon a satisfactory showing that an extension is justified. A request to extend the effective time to begin or complete actual construction under a PSD permit may be submitted. The request may result from the cessation of on-site construction before completion or failure to begin actual construction of the project(s) covered by the PSD permit.

(i) Request requirements.

(A) A written request for the extension, submitted by the PSD permit holder, as soon as possible prior to the expiration of the current PSD permit.

(B) An evaluation of BACT and an updated ambient impact, including an increment analysis, for all pollutants subject to the approval conditions in the PSD permit.

(ii) Duration of extensions.

(A) No single extension of time shall be longer than eighteen months.

(B) The cumulative time prior to beginning actual construction under the original PSD permit and all approved time extensions shall not exceed fifty-four months.

(iii) Issuance of an extension.

(A) Ecology may approve and issue an extension of the current PSD permit.

(B) The extension of approval shall reflect any revised BACT limitations based on the evaluation of BACT presented in the request for extension and other information available to ecology.

(C) The issuance of an extension is subject to the public involvement requirements in WAC 173-400-740.

(iv) For the extension of a PSD permit, ecology must prepare a technical support document consistent with WAC 173-400-730(3) only to the extent that those criteria apply to a request to extend the construction time limitation.

[Statutory Authority: RCW 70.94.152, 05-03-033 (Order 03-07), § 173-400-730, filed 1/10/05, effective 2/10/05.]

WAC 173-400-740 PSD permitting public involvement requirements. (1) Actions requiring notification of the public. Ecology must provide public notice before approving or denying any of the following types of actions related to implementation of the PSD program contained in WAC 173-400-720:

(a) Any preliminary determination to approve or disapprove a PSD permit application; or

(b) An extension of the time to begin construction or suspend construction under a PSD permit; or

(c) A revision to a PSD permit, except an administrative amendment to an existing permit.

(2) **Notification of the public.** Within one year of the receipt of a complete PSD application, and as expeditiously as possible after receipt of a request for extension of the construction time limit under WAC 173-400-730(6) or for a non-administrative revision to a PSD permit under WAC 173-400-750, ecology shall:

(a) Make available for public inspection in at least one location in the vicinity where the proposed source would be constructed, or for revisions to a PSD permit where the permittee exists, a copy of the information submitted by the applicant, and any applicable preliminary determinations, including analyses of the effects on air quality and air quality related values, considered in making the preliminary determination. Exemptions from this requirement include information protected from disclosure under any applicable law, including, but not limited to, RCW 70.94.205 and chapter 173-03 WAC.

(b) Notify the public by:

(i) Causing to be published, in a newspaper of general circulation in the area of the proposed project, the public notice prepared in accordance with WAC 173-400-730(4). The date the public notice is published in the newspaper starts the required thirty-day comment period.

(ii) If ecology grants a request to extend the public comment period, the extension notice must also be published in a newspaper as noted above and a copy of the extension notice sent to the organizations and individuals listed in (c) and (d) of this subsection. The closing date of the extended comment period shall be as defined in the public comment period extension notification.

(iii) If a hearing is held, the public comment period must extend through the hearing date.

(iv) The applicant or other initiator of the action must pay the cost of providing public notice.

(c) Send a copy of the public notice to:

(i) Any Indian governing body whose lands may be affected by emissions from the project;

(ii) The chief executive of the city where the project is located;

(iii) The chief executive of the county where the project is located;

(iv) Individuals or organizations that requested notification of the specific project proposal;

(v) Other individuals who requested notification of PSD permits;

(vi) Any state within 100 km of the proposed project.

(d) Send a copy of the public notice, PSD preliminary determination, and the technical support document to:

(i) The applicant;

(ii) The affected federal land manager;

(iii) EPA Region 10;

(iv) The permitting authority with authority over the source under chapter 173-401 WAC;

(v) Individuals or organizations who request a copy; and

(vi) The location for public inspection of material required under (a) of this subsection.

(3) **Public notice content.** The public notice shall contain at least the following information:

(a) The name and address of the applicant;

(b) The location of the proposed project;

(c) A brief description of the project proposal;

(d) The preliminary determination to approve or disapprove the application;

(e) How much increment is expected to be consumed by this project;

(f) The name, address, and telephone number of the person to contact for further information;

(g) A brief explanation of how to comment on the project;

(h) An explanation on how to request a public hearing;

(i) The location of the documents made available for public inspection;

(j) There is a thirty-day period from the date of publication of the notice for submitting written comment to ecology;

(k) A statement that a public hearing may be held if ecology determines within a thirty-day period that significant public interest exists;

(l) The length of the public comment period in the event of a public hearing;

(m) For projects subject to special protection requirements for federal Class I areas, in WAC 173-400-117, and where ecology disagrees with the analysis done by the federal land manager, ecology shall explain its decision in the public notice or state that an explanation of the decision appears in the technical support document for the proposed approval or denial.

(4) **Public hearings.**

(a) The applicant, any interested governmental entity, any group, or any person may request a public hearing within the thirty-day public comment period. A request must indicate the interest of the entity filing it and why a hearing is warranted. Whether a request for a hearing is filed or not, ecology may hold a public hearing if it determines significant public interest exists. Ecology will determine the location, date, and time of the public hearing.

(b) Notification of a public hearing will be accomplished per the requirements of WAC 173-400-740(2).

(c) The public must be notified at least thirty days prior to the date of the hearing (or first of a series of hearings).

(5) **Consideration of public comments.** Ecology shall make no final decision on any application or action of any type described in subsection (1) of this section until the pub-

lic comment period has ended and any comments received during the public comment period have been considered. Ecology shall make all public comments available for public inspection at the same locations where the preconstruction information on the proposed major source or major modification was made available.

(6) **Issuance of a final determination.**

(a) The final approval or disapproval determination shall include the following:

(i) A copy of the final PSD permit or the determination to deny the permit;

(ii) A summary of the comments received;

(iii) Ecology's response to those comments;

(iv) A description of what approval conditions changed from the preliminary determination; and

(v) A cover letter that includes an explanation of how the final determination may be appealed.

(b) Ecology shall mail a copy of the cover letter that accompanies the final determination to:

(i) Individuals or organizations that requested notification of the specific project proposal;

(ii) Other individuals who requested notification of PSD permits.

(c) A copy of the final determination shall be sent to:

(i) The applicant;

(ii) U.S. Department of the Interior - National Park Service;

(iii) U.S. Department of Agriculture - Forest Service;

(iv) EPA Region 10;

(v) The permitting authority with authority over the source under chapter 173-401 WAC;

(vi) Any person who commented on the preliminary determination; and

(vii) The location for public inspection of material required under subsection (2)(a) of this section.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-740, filed 1/10/05, effective 2/10/05.]

WAC 173-400-750 Revisions to PSD permits. (1) The owner or operator may request, at any time, a change in conditions of a PSD permit and ecology may approve the request provided ecology finds that:

(a) The change in conditions will not cause the source to exceed an emissions standard established by regulation;

(b) No ambient air quality standard or PSD increment will be exceeded as a result of the change;

(c) The change will not adversely impact the ability of ecology or the authority to determine compliance with an emissions standard;

(d) The revised PSD permit will continue to require BACT, as defined at the time of the original PSD permit, for each new or modified emission unit approved by the original PSD permit; and

(e) The revised PSD permit continues to meet the requirements of WAC 173-400-112(2), and 173-400-113, as applicable.

(2) A request to revise a PSD permit must be acted upon using the timelines found in WAC 173-400-730. The fee schedule found in WAC 173-400-116 shall also apply.

(3) All revisions to PSD permits are subject to public involvement except for the following administrative revisions:

(a) Change of the owner or operator's business name and/or mailing address;

(b) Corrections to typographical errors;

(c) Revisions to compliance monitoring methods that do not reduce the permittee's or ecology's ability to determine compliance with the emission limitations; or

(d) Any other revision that does not reduce the stringency of the emission limitations in the PSD permit or the ability of ecology, the permitting authority, EPA, or the public to determine compliance with the approval conditions in the PSD permit.

[Statutory Authority: RCW 70.94.152, 05-03-033 (Order 03-07), § 173-400-750, filed 1/10/05, effective 2/10/05.]

Chapter 173-415 WAC PRIMARY ALUMINUM PLANTS

WAC

173-415-015	Applicability.
173-415-020	Definitions.
173-415-030	Emission standards.
173-415-060	Monitoring and reporting.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

173-415-040	Standards of performance. [Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), § 173-415-040, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 70.94 and 43.21A RCW. 82-16-020 (Order DE 82-21), § 173-415-040, filed 7/27/82. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-028 (Order DE 80-17), § 173-415-040, filed 8/14/80. Formerly WAC 18-52-051.] Repealed by 05-17-169 (Order 05-07), filed 8/23/05, effective 9/23/05. Statutory Authority: RCW 70.94.395 and 70.94.331.]
173-415-045	Creditable stack height and dispersion techniques. [Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), § 173-415-045, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 70.94 and 43.21A RCW. 88-01-057 (Order 87-50), § 173-415-045, filed 12/16/87.] Repealed by 05-17-169 (Order 05-07), filed 8/23/05, effective 9/23/05. Statutory Authority: RCW 70.94.395 and 70.94.331.]
173-415-050	New source review (NSR). [Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), § 173-415-050, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-415-050, filed 4/15/83. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-028 (Order DE 80-17), § 173-415-050, filed 8/14/80. Formerly WAC 18-52-056.] Repealed by 05-17-169 (Order 05-07), filed 8/23/05, effective 9/23/05. Statutory Authority: RCW 70.94.395 and 70.94.331.]
173-415-051	Prevention of significant deterioration (PSD). [Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), § 173-415-051, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 70.94 and 43.21A RCW. 88-01-057 (Order 87-50), § 173-415-051, filed 12/16/87.] Repealed by 05-17-169 (Order 05-07), filed 8/23/05, effective 9/23/05. Statutory Authority: RCW 70.94.395 and 70.94.331.]
173-415-070	Report of startup, shutdown, breakdown or upset conditions. [Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), § 173-415-070, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-415-070, filed 4/15/83. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-028 (Order DE 80-17), § 173-415-070, filed 8/14/80. Formerly WAC 18-52-077.] Repealed by 05-17-169 (Order 05-07), filed

8/23/05, effective 9/23/05. Statutory Authority: RCW 70.94.395 and 70.94.331.]

173-415-080

Emission inventory. [Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), § 173-415-080, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 43.21A and 70.94 RCW. 89-02-055 (Order 88-39), § 173-415-080, filed 1/3/89; 83-09-036 (Order DE 83-13), § 173-415-080, filed 4/15/83. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-028 (Order DE 80-17), § 173-415-080, filed 8/14/80. Formerly WAC 18-52-086.] Repealed by 05-17-169 (Order 05-07), filed 8/23/05, effective 9/23/05. Statutory Authority: RCW 70.94.395 and 70.94.331.]

WAC 173-415-015 Applicability. (1) In addition to the general applicability of chapter 173-400 WAC to all emission sources, all primary aluminum reduction plants are required to meet the emissions standards of this chapter. Specific emissions standards and requirements listed in this chapter shall supersede the general emissions standards and general requirements in chapter 173-400 WAC.

(2) All primary aluminum reduction plants are required to meet applicable National Emissions Standards for Hazardous Air Pollutants (NESHAPs). New primary aluminum reduction plants must meet federal New Source Performance Standards (NSPS).

(3) In this rule, whenever a federal regulation is cited, the most recent version that has been adopted into Washington Administrative Code is the version of the federal regulation that is referenced. These most recent adoptions by reference can be found in chapter 173-400 WAC.

[Statutory Authority: RCW 70.94.395 and 70.94.331. 05-17-169 (Order 05-07), § 173-415-015, filed 8/23/05, effective 9/23/05.]

WAC 173-415-020 Definitions. The definitions of terms contained in chapter 173-400 WAC are incorporated into this chapter by reference. Unless a different meaning is clearly required by context, the following words and phrases as used in this chapter, shall have the following meanings:

(1) "Potline" means a single discreet group of electrolytic reduction cells connected in series, in which alumina is reduced to form aluminum.

(2) "Primary aluminum reduction plant" means any facility manufacturing aluminum by electrolytic reduction. For the purposes of this regulation "primary aluminum reduction plant" is equivalent to "source."

(3) "Primary emission control system" means the equipment used to capture the gases and particulate matter evacuated directly from the reduction cell and the emission control device(s) used to remove pollutants prior to discharge of the cleaned gas to the atmosphere. A roof scrubber is not part of the primary control system.

(4) "Total fluorides (TF)" means elemental fluorine and all fluoride compounds as measured by Methods 13A, 13B or 14A in 40 CFR Part 60 Appendix A or by an EPA approved alternative method.

[Statutory Authority: RCW 70.94.395 and 70.94.331. 05-17-169 (Order 05-07), § 173-415-020, filed 8/23/05, effective 9/23/05. Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), § 173-415-020, filed 2/19/91, effective 3/22/91. Statutory Authority: RCW 70.94.331. 85-06-048 (Order 84-50), § 173-415-020, filed 3/6/85. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-415-020, filed 4/15/83. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-028 (Order DE 80-17), § 173-415-020, filed 8/14/80. Formerly WAC 18-52-021.]

WAC 173-415-030 Emission standards. (1) Fluoride. The emission of total fluorides from a primary aluminum reduction plant shall meet the MACT requirements specified in 40 CFR 63 Subpart LL. If the department has reason to believe that adverse fluoride impacts are occurring in violation of chapter 173-481 WAC, a primary aluminum reduction plant must establish, in response to a request from the department, an ambient air and/or forage monitoring program approved by the department as required by WAC 173-481-150.

(2) Particulate. The total emission of particulate matter to the atmosphere from the reduction process (potlines) shall be reduced to the lowest level consistent with reasonably available control technology (RACT) for primary aluminum reduction plants. The emission of solid particulate shall not exceed 7.5 grams per kilogram (fifteen pounds per ton) of aluminum produced on a daily basis. Aluminum produced shall be calculated by the method used to determine aluminum production rate in 40 CFR 63.847 (e)(6).

(3) Visible emissions. Visible emissions from any emissions unit in a primary aluminum reduction plant shall not exceed an average twenty percent opacity for more than six consecutive minutes in any sixty minute period. This provision shall not apply:

(a) When the presence of uncombined water is the only reason for the opacity of the plume to exceed twenty percent; or

(b) When an alternate opacity limit has been established under RCW 70.94.331 (2)(c).

(4) Fugitive emissions. Each primary aluminum reduction plant shall use RACT to prevent fugitive emissions. Fugitive dust is included in fugitive emissions.

(5) Sulfur dioxide.

(a) Total emissions of sulfur dioxide from all emissions units shall not exceed thirty grams of sulfur dioxide per kilogram of aluminum produced on a monthly average (sixty pounds per ton). Those primary aluminum plants which were in excess of the above sulfur dioxide limit on January 1, 1978, will be allowed to emit at the January 1, 1978, level of emissions provided that the owners or operators did demonstrate to ecology by July 1, 1981, by use of modeling and ambient measurements, that the emissions will not cause the ambient standard to be exceeded, and that the limits are placed in a regulatory order(s).

(b) In no case shall any plant cause or permit the emission of a gas containing sulfur dioxide in excess of one thousand parts per million corrected to dry standard conditions for an hourly average.

(6) Operation and maintenance (O&M). At all times, including periods of abnormal operation and upset conditions, owners and operators shall, to the extent practicable, maintain and operate an affected facility, including associated air pollution control equipment, in a manner consistent with good air pollution control practice. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to ecology which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source. The means for demonstrating ongoing compliance with good O&M may include, but not be limited to: More frequent source testing,

prescriptive procedures or inspections, control values for emissions at values less than the applicable regulatory requirements and that function as an investigative trigger rather than as a limit, collection and efficiency requirements, or the use of CEMs.

(7) Source testing. To demonstrate compliance with this chapter, the testing provisions of chapter 173-400 WAC and MACT requirements as specified in 40 CFR 63 Subpart LL shall be used as applicable.

[Statutory Authority: RCW 70.94.395 and 70.94.331. 05-17-169 (Order 05-07), § 173-415-030, filed 8/23/05, effective 9/23/05. Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), § 173-415-030, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-415-030, filed 4/15/83. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-028 (Order DE 80-17), § 173-415-030, filed 8/14/80. Formerly WAC 18-52-031.]

WAC 173-415-060 Monitoring and reporting. (1)

When requested by the department, each primary aluminum reduction plant shall conduct routine monitoring of emissions, ambient air, and forage in accordance with a program that has been approved by the department of ecology. Results of monitoring shall be reported within thirty days of the end of each calendar month. In addition to the information required by the Primary Aluminum MACT, 40 CFR 63 Subpart LL, the approved program shall include data as follows:

(a) Particulate emissions: Results of all emission sampling conducted during the month for particulates, shall be expressed in units used in the applicable requirements or in units specified in the monitoring plan. The method of calculating pounds per ton shall be as specified in the approved monitoring programs. For each potline, particulate data shall be reported as total particulates and percentage of fluoride ion contained therein. For other units at a primary aluminum reduction plant, particulate data shall be reported as total particulates.

Compliance with WAC 173-415-030(2) shall be determined by measurements of emissions from the potline primary control system plus measurements of emissions from the potline roof.

(b) Fluoride emissions: Results of all sampling conducted during the month for fluoride emissions shall be reported in pounds of total fluoride per ton of aluminum produced. Aluminum produced shall be calculated by the method used to determine aluminum production rate in 40 CFR 63.847 (e)(6).

(c) Other emission and ambient air data as specified in the approved monitoring program.

(2) Other data: Each primary aluminum reduction plant shall furnish other data requested by the department of ecology to evaluate a plant's emission control program.

(3) Change in raw materials or fuel: Any change or series of changes in raw material or fuel which results in a cumulative increase in emissions of sulfur dioxide of five hundred tons per year or more over that stated in the 1979 emissions inventory shall require the submittal of sufficient information to the department of ecology so that the effect upon ambient concentrations of sulfur dioxide can be determined. The department of ecology may issue regulatory orders requiring controls to reduce the effect of such increases.

[Statutory Authority: RCW 70.94.395 and 70.94.331. 05-17-169 (Order 05-07), § 173-415-060, filed 8/23/05, effective 9/23/05. Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), § 173-415-060, filed 2/19/91, effective 3/22/91. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-028 (Order DE 80-17), § 173-415-060, filed 8/14/80. Formerly WAC 18-52-061 and 18-52-071.]

Chapter 173-423 WAC LOW EMISSION VEHICLES

WAC

173-423-010	Purpose.
173-423-020	Applicability.
173-423-025	Effective date.
173-423-030	Incorporation by reference.
173-423-040	Definitions and abbreviations.
173-423-050	Requirement to meet California vehicle emission standards.
173-423-060	Exemptions.
173-423-070	Emission standards, warranty, recall and other California provisions adopted by reference.
173-423-080	Fleet average nonmethane organic gas (NMOG) exhaust emission requirements, reporting and compliance.
173-423-090	Fleet average greenhouse gas exhaust emission requirements, reporting and compliance.
173-423-100	Manufacturer delivery reporting requirements.
173-423-110	Warranty requirements.
173-423-120	Recalls.
173-423-130	Surveillance.
173-423-140	Enforcement.
173-423-150	Severability.

WAC 173-423-010 Purpose. The purpose of this chapter is to establish rules implementing the California motor vehicle emission standards adopted by the 2005 legislature and codified in chapters 70.120A and 46.16 RCW.

[Statutory Authority: RCW 70.120A.010. 05-24-044, § 173-423-010, filed 11/30/05, effective 12/31/05.]

WAC 173-423-020 Applicability. This chapter applies to all 2009 and subsequent model year passenger cars, light duty trucks and medium duty passenger vehicles registered, leased, rented or sold for use in the state of Washington, except as provided in WAC 173-423-060, Exemptions.

[Statutory Authority: RCW 70.120A.010. 05-24-044, § 173-423-020, filed 11/30/05, effective 12/31/05.]

WAC 173-423-025 Effective date. This chapter is effective on January 1, 2006, provided the state of Oregon has adopted the California motor vehicle emission standards as provided in RCW 70.120A.010.

[Statutory Authority: RCW 70.120A.010. 05-24-044, § 173-423-025, filed 11/30/05, effective 12/31/05.]

WAC 173-423-030 Incorporation by reference. (1) This chapter incorporates by reference certain sections of the California Code of Regulations, Title 13, relating to implementing the California motor vehicle emission standards in the state of Washington. Table 070(1) found in WAC 173-423-070 lists the sections of the California Code of Regulations, Title 13 incorporated by reference and the California effective date for each section.

(2) Copies of the relevant sections of the California Code of Regulations, Title 13 incorporated by reference in this chapter are available on ecology's web site or by contacting:

Washington State Department of Ecology
Air Quality Program
300 Desmond Drive
Lacey, Washington 98503
360-407-6800

(3) For purposes of applying the incorporated sections of the California Code of Regulations, Title 13 in Washington, "California" means "Washington" unless otherwise specified in this chapter or clearly inappropriate.

[Statutory Authority: RCW 70.120A.010. 05-24-044, § 173-423-030, filed 11/30/05, effective 12/31/05.]

WAC 173-423-040 Definitions and abbreviations.

The following definitions apply to the administration of this chapter. Any term that is not defined in this section shall be as defined or described in the California Code of Regulations, Title 13, section 1900. Definitions in the California Code of Regulations, Title 13, section 1900 will prevail if any discrepancy arises between them and those set forth in this section.

(1) "Emission credits" are earned when a manufacturer's reported fleet average is less than the required fleet average. Credits are calculated according to formulas contained in the California Code of Regulations, Title 13, section 1961(c) and 1961.1(b).

(2) "Emission debits" are earned when a manufacturer's reported fleet average exceeds the required fleet average. Debits are calculated according to formulas contained in the California Code of Regulations, Title 13, section 1961(c) and 1961.1(b).

(3) "Fleet average greenhouse gas emission requirements" are generally referred to as limitations on greenhouse gas exhaust mass emission values from passenger cars, light-duty trucks and medium-duty passenger vehicles. The fleet average greenhouse gas emission requirements are set forth in CCR, Title 13, section 1961.1, and incorporated herein by reference.

(4) "Gross vehicle weight rating" or "GVWR" is the value specified by the manufacturer as the maximum design loaded weight of a single vehicle.

(5) "Independent low volume manufacturer" is defined in the California Code of Regulations, Title 13, section 1900 and incorporated herein by reference.

(6) "Intermediate volume manufacturer" is defined in the California Code of Regulations, Title 13, section 1900 and incorporated herein by reference.

(7) "Large volume manufacturer" is defined in the California Code of Regulations, Title 13, section 1900 and incorporated herein by reference.

(8) "Light duty truck" is any 2000 and subsequent model motor vehicle certified to the standards in Title 13, CCR, section 1961 (a)(1) rated at 8,500 pounds gross vehicle weight or less, and any other motor vehicle rated at 6,000 pounds gross vehicle weight or less, which is designed primarily for the purposes of transportation of property or is a derivative of such vehicle, or is available with special features enabling off-street or off-highway operation and use.

(9) "Medium duty passenger vehicle" (MDPV) is any medium-duty vehicle with a gross vehicle weight rating of less than 10,000 pounds that is designed primarily for the

transportation of persons. The medium-duty passenger vehicle definition does not include any vehicle which:

(a) Is an "incomplete truck," i.e., is a truck that does not have the primary load carrying device or container attached; or

(b) Has a seating capacity of more than twelve persons; or

(c) Is designed for more than nine persons in seating rearward of the driver's seat; or

(d) Is equipped with an open cargo area of 72.0 inches in interior length or more. A covered box not readily accessible from the passenger compartment will be considered an open cargo area for the purpose of this definition.

(10) "Model year" is the manufacturer's annual production period which includes January 1 of a calendar year. If the manufacturer has no annual production period, "model year" is the calendar year. In the case of any vehicle manufactured in two or more stages, the time of manufacture shall be the date of completion of the chassis.

(11) "Nonmethane organic gas" or "NMOG" is the sum of nonoxygenated and oxygenated hydrocarbons contained in a gas sample as measured in accordance with the "*California Non-Methane Organic Gas Test Procedures*," and incorporated herein by reference.

(12) "NMOG fleet average emissions" is a motor vehicle manufacturer's average vehicle emissions of all nonmethane organic gases from passenger cars and light duty trucks in any model year delivered in Washington that are subject to this regulation.

(13) "Passenger car" is any motor vehicle designed primarily for transportation of persons and having a design capacity of twelve persons or less.

(14) "Small volume manufacturer" is defined as set forth in the California Code of Regulations, Title 13, section 1900 and incorporated herein by reference.

[Statutory Authority: RCW 70.120A.010. 05-24-044, § 173-423-040, filed 11/30/05, effective 12/31/05.]

WAC 173-423-050 Requirement to meet California vehicle emission standards. (1) Starting with the 2009 model year, no vehicle shall be registered, leased, rented, licensed or sold for use in the state of Washington unless such vehicle is certified to California emission standards, except as provided in WAC 173-423-060, Exemptions.

(2) The state of Washington will use the vehicle emission standards used by California including:

(a) The exhaust emission standards set forth in the California Code of Regulations, Title 13, section 1961;

(b) The emission control label or smog index label requirements set forth in the California Code of Regulations, Title 13, section 1965;

(c) The evaporative emission standards set forth in the California Code of Regulations, Title 13, section 1976;

(d) The refueling emissions standards set forth in the California Code of Regulations, Title 13, section 1978;

(e) The malfunction and diagnostic system requirements set forth in the California Code of Regulations, Title 13, section 1968.2;

(f) The specifications for fill pipes and openings of motor vehicle fuel tanks set forth in the California Code of Regulations, Title 13, section 2235; and

(g) The greenhouse gas emission standards as set forth in the California Code of Regulations, Title 13, section 1961.1.

(3) All vehicle manufacturers shall comply with the fleet average emission requirement, and the warranty, recall and other applicable requirements set forth in this chapter.

[Statutory Authority: RCW 70.120A.010. 05-24-044, § 173-423-050, filed 11/30/05, effective 12/31/05.]

WAC 173-423-060 Exemptions. The following vehicles are not subject to this chapter:

(1) Military tactical vehicles;

(2) Vehicles sold for registration and use out-of-state;

(3) Previously registered vehicles where the mileage at the time of sale exceeds seven thousand five hundred miles, provided that for vehicle dealers, the mileage at the time of sales is determined by the odometer statement at the time the vehicle dealer acquired the vehicle;

(4) Vehicles which are only available for rent to a final destination outside of Washington;

(5) Vehicles purchased by a nonresident prior to establishing residency in the state of Washington, regardless of the mileage on the vehicle;

(6) Vehicles transferred by inheritance or as a result of divorce, dissolution or legal separation; and

(7) An emergency vehicle when a public safety agency has demonstrated to the department of ecology's satisfaction that a vehicle that will meet said agency's needs is not otherwise reasonably available.

[Statutory Authority: RCW 70.120A.010. 05-24-044, § 173-423-060, filed 11/30/05, effective 12/31/05.]

WAC 173-423-070 Emission standards, warranty, recall and other California provisions adopted by reference. Each manufacturer and each new 2009 and subsequent model year passenger car, light duty truck and medium duty passenger vehicle subject to this chapter shall comply with each applicable standard set forth in Table 070(1) and incorporated by reference:

Table 070(1)
California Code of Regulations (CCR)
Title 13
Provisions Incorporated by Reference
Effective in Washington January 1, 2006

Title 13 CCR	Title	California Effective Date
Chapter 1 Motor Vehicle Pollution Control Devices		
Article 1 General Provisions		
Section 1900	Definitions	1/01/06
Article 2 Approval of Motor Vehicle Pollution Control Devices (New Vehicles)		
Section 1956.8 (g) and (h)	Exhaust Emission Standards and Test Procedures - 1985 and Subsequent Model Heavy Duty Engines and Vehicles	1/31/05

Title 13 CCR	Title	California Effective Date
Section 1960.1	Exhaust Emission Standards and Test Procedures - 1981 and through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles	3/26/04
Section 1961	Exhaust Emission Standards and Test Procedures - 2004 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	1/01/06
Section 1961.1	Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2009 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	1/01/06
Section 1965	Emission Control and Smog Index Labels - 1979 and Subsequent Model Year Vehicles	12/04/03
Section 1968.2	Malfunction and Diagnostic System Requirements - 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	4/21/03
Section 1968.5	Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines	4/21/03
Section 1976	Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions	11/27/99
Section 1978	Standards and Test Procedures for Vehicle Refueling Emissions	12/04/03
Article 6 Emission Control System Warranty		
Section 2035	Purpose, Applicability and Definitions	12/26/90

Title 13 CCR	Title	California Effective Date
Section 2037	Defects Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	11/27/99
Section 2038	Performance Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	11/27/99
Section 2039	Emission Control System Warranty Statement	12/26/90
Section 2040	Vehicle Owner Obligations	12/26/90
Section 2046	Defective Catalyst	1/16/79
Chapter 2 Enforcement of Vehicle Emission Standards and Enforcement Testing		
Article 2 Enforcement of New and In-Use Vehicle Standards		
Section 2109	New Vehicle Recall Provisions	11/30/83
Article 2.1 Procedures for In-Use Vehicle Voluntary and Influenced Recalls		
Section 2111	Applicability	8/21/02
Section 2112	Definitions	11/15/03
	Appendix A to Article 2.1	11/15/03
Section 2113	Initiation and Approval of Voluntary and Influenced Recalls	1/26/95
Section 2114	Voluntary and Influenced Recall Plans	11/27/99
Section 2115	Eligibility for Repair	1/26/95
Section 2116	Repair Label	1/26/95
Section 2117	Proof of Correction Certificate	1/26/95
Section 2118	Notification	1/26/95
Section 2119	Recordkeeping and Reporting Requirements	11/27/99
Section 2120	Other Requirements Not Waived	1/26/95
Article 2.2 Procedures for In-Use Vehicle Ordered Recalls		
Section 2122	General Provisions	1/26/95

Title 13 CCR	Title	California Effective Date
Section 2123	Initiation and Notification of Ordered Emission-Related Recalls	1/26/95
Section 2124	Availability of Public Hearing	1/26/95
Section 2125	Ordered Recall Plan	1/26/95
Section 2126	Approval and Implementation of Recall Plan	1/26/95
Section 2127	Notification of Owners	1/26/95
Section 2128	Repair Label	1/26/95
Section 2129	Proof of Correction Certificate	1/26/95
Section 2130	Capture Rates and Alternative Measures	11/27/99
Section 2131	Preliminary Tests	1/26/95
Section 2132	Communication with Repair Personnel	1/26/95
Section 2133	Recordkeeping and Reporting Requirements	1/26/95
Section 2135	Extension of Time	1/26/95
Article 2.4 Procedures for Reporting Failure of Emission-Related Components		
Section 2141	General Provisions	12/28/00
Section 2142	Alternative Procedures	2/23/90
Section 2143	Failure Levels Triggering Recall	11/27/99
Section 2144	Emission Warranty Information Report	11/27/99
Section 2145	Field Information Report	11/27/99
Section 2146	Emissions Information Report	11/27/99
Section 2147	Demonstration of Compliance with Emission Standards	8/21/02
Section 2148	Evaluation of Need for Recall	11/27/99
Section 2149	Notification of Subsequent Action	2/23/90
Chapter 4.4 Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks		
Section 2235	Requirements	9/17/91

[Statutory Authority: RCW 70.120A.010. 05-24-044, § 173-423-070, filed 11/30/05, effective 12/31/05.]

WAC 173-423-080 Fleet average nonmethane organic gas (NMOG) exhaust emission requirements, reporting and compliance. (1) Fleet average requirement. Effective model year 2009, each motor vehicle manufacturer's NMOG fleet average emissions from passenger cars and light duty trucks delivered for sale in Washington shall not exceed the Fleet Average NMOG Exhaust Emission Requirement set forth in the California Code of Regulations, Title 13, section 1961. Compliance shall be based on the

[2006 WAC Supp—page 264]

number of vehicles, subject to this regulation, delivered for sale in the state of Washington.

(2) Fleet average NMOG exhaust emission credits and debits. Effective model year 2009, each vehicle manufacturer can accrue NMOG emission credits and debits and use credits in accordance with the procedures in the California Code of Regulations, Title 13, section 1961. Debits and credits accrued and used shall be based on the number of vehicles, subject to this chapter, produced and delivered for sale by each manufacturer, in the state of Washington.

(3) Reporting. Commencing with the 2009 model year, each manufacturer shall submit by March 1 a report to the department of ecology that shall include:

(a) Premodel year data which projects the fleet average NMOG exhaust emissions for vehicles expected to be delivered for sale in Washington.

(b) End-of-model year data which calculates the fleet average NMOG exhaust emissions for the model year just ended.

The report shall follow the procedures in the California Code of Regulations, Title 13, section 1961 and shall be in the same format used to report such information to the California Air Resources Board.

(4) Compliance with fleet average NMOG requirement. Beginning in model year 2012, if a report submitted by the manufacturer under subsection (3) of this section demonstrates that the manufacturer is not in compliance with the fleet average emission standard, the manufacturer must submit to the department of ecology within sixty days a Fleet Average Enforcement Report. The Fleet Average Enforcement Report shall:

(a) Describe how the manufacturer intends to equalize any accrued debits, as required in the California Code of Regulations, Title 13, section 1961, and in accordance with subsection (2) of this section.

(b) Identify all vehicle models delivered for sale in Washington, their corresponding certification standards, and the percentage of each model delivered for sale in Washington and California in relation to total fleet sales in the respective state.

(c) Describe how the manufacturer plans to achieve compliance with the fleet average in future model years.

For model years 2009 through 2011 the Fleet Average Enforcement Report, if needed, must be submitted to the department of ecology by March 1, 2012. If debits are accrued in all three years, one year of debits must be equalized by the end of the 2012 model year.

[Statutory Authority: RCW 70.120A.010. 05-24-044, § 173-423-080, filed 11/30/05, effective 12/31/05.]

WAC 173-423-090 Fleet average greenhouse gas exhaust emission requirements, reporting and compliance. (1) Each manufacturer subject to the greenhouse gas provisions of this regulation shall comply with emissions standards, fleet average greenhouse gas exhaust mass emission requirements for passenger car, light duty truck, medium duty passenger vehicle weight classes, and other requirements of the California Code of Regulations, Title 13, section 1961.1.

(2) Large volume manufacturer. The fleet average greenhouse gas exhaust emission levels for passenger cars, light-duty trucks, and medium-duty passenger vehicles produced and delivered for sale in the state of Washington by a large volume manufacturer for each 2009 and subsequent model year are established in the California Code of Regulations, Title 13, section 1961.1.

(3) Small, intermediate and independent manufacturers. The fleet average greenhouse gas exhaust emission requirements for passenger cars, light-duty trucks, and medium-duty passenger vehicles delivered for sale in the state of Washington by small volume, intermediate volume and independent low volume manufacturers are set forth in the California Code of Regulations, Title 13, section 1961.1, which specifies that requirements for these manufacturers are waived prior to the 2016 model year.

(4) Greenhouse gas credits and debits. Greenhouse gas credits and debits may be accrued and used based on each manufacturer's sale of vehicles in Washington in accordance with the California Code of Regulations, Title 13, section 1961.1.

(5) Optional alternative compliance with greenhouse gas emission standards. Greenhouse gas vehicle test groups that are certified pursuant to the California Code of Regulations, Title 13, section 1961.1 (a)(1)(B)2.a in the state of California may receive equivalent credit if delivered for sale and use in the state of Washington.

(6) Alternative compliance credit. A manufacturer shall submit to the department of ecology the data set forth in the California Code of Regulations, Title 13, section 1961.1 (a)(1)(B)2.a.i for Washington specific sale and use in order to receive the credit identified in subsection (5) of this section.

(7) Reporting on greenhouse gas requirements. Beginning with the 2009 model year, each manufacturer shall submit by March 1 a report to the department of ecology that shall include:

(a) Premodel year data which projects the fleet average greenhouse gas emissions for vehicles expected to be delivered for sale in Washington.

(b) End-of-model year data which calculates the fleet average greenhouse gas emissions for the model year just ended. The report shall include the number of greenhouse gas vehicle test groups, delineated by model type, certified pursuant to the California Code of Regulations, Title 13, section 1961.1.

The report shall follow the procedures in the California Code of Regulations, Title 13, section 1961.1 and shall be in the same format used to report such information to the California Air Resources Board.

(8) Compliance with fleet average greenhouse gas requirements. Beginning in model year 2009, if the report submitted by the manufacturer under subsection (7) of this section demonstrates that the manufacturer is not in compliance with the fleet average emission standards, the manufacturer must submit to the department of ecology within sixty days a Fleet Average Enforcement Report. The Fleet Average Enforcement Report shall:

(a) Describe how the manufacturer intends to equalize any accrued debits, as required in the California Code of Regulations, Title 13, section 1961.1.

(b) Identify all vehicle models delivered for sale in Washington, their corresponding certification standards, and the percentage of each model delivered for sale in Washington and California in relation to total fleet sales in the respective state.

(c) Describe how the manufacturer plans to achieve compliance with the fleet average in future model years.

[Statutory Authority: RCW 70.120A.010. 05-24-044, § 173-423-090, filed 11/30/05, effective 12/31/05.]

WAC 173-423-100 Manufacturer delivery reporting requirements. (1) The manufacturer shall submit to the department of ecology one copy of the California Executive Order and Certificate of Conformity for certification of new motor vehicles for each engine family to be sold in the state of Washington within thirty days of receiving the Executive Order from the California Air Resources Board. If such reports are available electronically, the manufacturer shall send the record in an electronic format acceptable to the department of ecology. Manufacturers may discontinue submitting these reports if so notified by the department of ecology.

(2) Commencing with the 2009 model year and prior to the beginning of each model year, upon request, each manufacturer shall submit to the department of ecology a list of all models of medium duty vehicles and medium duty passenger vehicles that will be delivered to Washington dealers. Medium duty vehicles are those with a GVWR of 8,501 to 14,000 pounds.

(3) Upon request, each manufacturer shall report to the department of ecology the vehicle identification numbers (VIN) of each passenger car, light duty truck and medium duty passenger vehicle delivered to each Washington dealer that is not certified to California emission standards.

(4) For the purposes of determining compliance with this chapter, the department of ecology may require any vehicle manufacturer to submit any documentation the department of ecology deems necessary to the effective administration and enforcement of this chapter, including all certification materials submitted to the California Air Resources Board.

[Statutory Authority: RCW 70.120A.010. 05-24-044, § 173-423-100, filed 11/30/05, effective 12/31/05.]

WAC 173-423-110 Warranty requirements. (1) For all 2009 and subsequent model year vehicles subject to the provisions of this chapter, each manufacturer shall provide, to the ultimate purchaser and each subsequent purchaser, a warranty that complies with the requirements set forth in the California Code of Regulations, Title 13, sections 2035 through 2038, 2040, and 2046.

(2) For all 2009 and subsequent model year vehicles subject to the provisions of this chapter, each manufacturer shall include the emission control system warranty statement that complies with the requirements in the California Code of Regulations, Title 13, section 2039. Manufacturers may modify this statement as necessary to inform Washington vehicle owners of the applicability of the warranty. The manufacturer shall provide a telephone number appropriate for Washington residents.

(3) All manufacturers shall submit to the department of ecology Failure of Emission-Related Components reports as

defined in the California Code of Regulations, Title 13, section 2144 for vehicles subject to this regulation. For purposes of compliance with this requirement, manufacturers may submit copies of the Failure of Emission-Related Components reports that are submitted to the California Air Resources Board, in lieu of submitting reports for vehicles subject to this chapter. Manufacturers may discontinue submitting these reports if so notified by the department of ecology.

[Statutory Authority: RCW 70.120A.010. 05-24-044, § 173-423-110, filed 11/30/05, effective 12/31/05.]

WAC 173-423-120 Recalls. (1) Any order or enforcement action taken by the California Air Resources Board to correct noncompliance with any section of Title 13, which results in the recall of any vehicle pursuant to the California Code of Regulations, Title 13, sections 2109 through 2135, shall be applicable to vehicles registered in the state of Washington. If the manufacturer can demonstrate to the department of ecology's satisfaction that the action is not applicable to vehicles registered in Washington, the action shall not apply in Washington.

(2) Any voluntary or influenced emission-related recall campaign initiated by any manufacturer pursuant to the California Code of Regulations, Title 13, sections 2113 through 2121 shall extend to all applicable vehicles registered in Washington. If the manufacturer can demonstrate to the department of ecology's satisfaction that said campaign is not applicable to vehicles registered in Washington, the campaign shall not apply in Washington.

(3) For vehicles subject to an action pursuant to subsection (1) of this section, each manufacturer shall send to owners of vehicles registered in the state of Washington a notice that complies with the requirements in the California Code of Regulations, Title 13, sections 2118 or 2127. Such notice shall contain a telephone number appropriate for Washington residents.

[Statutory Authority: RCW 70.120A.010. 05-24-044, § 173-423-120, filed 11/30/05, effective 12/31/05.]

WAC 173-423-130 Surveillance. (1) The department of ecology may inspect new and used motor vehicles and related records for the purposes of determining compliance with the requirements of this chapter. Department of ecology inspections shall occur during regular business hours and on any premises owned, operated or used by any dealer or rental car agency.

(2) For the purposes of determining compliance with this chapter, the department of ecology may require any vehicle dealer or rental car agency to submit any documentation the department of ecology deems necessary to the effective administration and enforcement of this chapter. This provision does not require creation of new records.

[Statutory Authority: RCW 70.120A.010. 05-24-044, § 173-423-130, filed 11/30/05, effective 12/31/05.]

WAC 173-423-140 Enforcement. Any person who violates any provision of this chapter shall be liable for a civil penalty not to exceed five thousand dollars per vehicle. Penalties provided in this section shall be imposed pursuant to RCW 43.21B.300.

[Statutory Authority: RCW 70.120A.010. 05-24-044, § 173-423-140, filed 11/30/05, effective 12/31/05.]

WAC 173-423-150 Severability. Each section of this regulation shall be deemed severable, and in the event that any section of this regulation is held invalid, the remainder shall continue in full force and effect.

[Statutory Authority: RCW 70.120A.010. 05-24-044, § 173-423-150, filed 11/30/05, effective 12/31/05.]

Chapter 173-481 WAC

AMBIENT AIR QUALITY AND ENVIRONMENTAL STANDARDS FOR FLUORIDES

(Formerly chapter 18-48 WAC)

WAC

173-481-020	Applicability.
173-481-030	Definitions.
173-481-100	Forage standards.
173-481-110	Ambient action levels.
173-481-150	Corrective action.

WAC 173-481-020 Applicability. The forage provisions of this chapter apply to all areas where livestock are grazed, and where forage is grown for livestock feed. The ambient action levels apply to areas where fluoride sensitive vegetation is grown for commercial purposes and in public land use areas, such as parks, where fluoride damage to vegetation would adversely impact the use and enjoyment of the area. The ambient action levels are independent of the forage standards and are not designed to relate to potential concentrations in forage.

[Statutory Authority: RCW 70.94.395 and 70.94.331. 05-17-169 (Order 05-07), § 173-481-020, filed 8/23/05, effective 9/23/05. Statutory Authority: Chapter 70.94 RCW. 87-19-073 (Order 87-21), § 173-481-020, filed 9/16/87.]

WAC 173-481-030 Definitions. The definitions of terms contained in chapter 173-400 WAC are incorporated into this chapter by reference. Unless a different meaning is clearly required by context, the following words and phrases as used in this chapter, shall have the following meanings:

(1) "Fluorides" means compounds of the element of fluorine.

(2) "Forage" means grasses, pasture and other vegetation that is consumed or is intended to be consumed by livestock.

(3) "Growing season" means April 1 to September 30 unless a different period is specified by the department by an order.

(4) "Injury" means any fluoride induced measurable change in a plant that is metabolic, visual, or physiological such as alterations in the assimilation rate of plant constituents, leaf necrosis, leaf or fruit abscission, or reduced or altered growth.

(5) "Damage" means any fluoride induced injury to a plant that causes economic loss, or would adversely impact the use and enjoyment of public land use areas.

(6) "Public land use area" means land belonging to the community as a whole and administered through its representatives in government, and within which fluoride sensitive vegetation is important to the purpose of the land use such as parks, national forests, etc.

[Statutory Authority: RCW 70.94.395 and 70.94.331. 05-17-169 (Order 05-07), § 173-481-030, filed 8/23/05, effective 9/23/05. Statutory Authority: Chapter 70.94 RCW. 87-19-073 (Order 87-21), § 173-481-030, filed 9/16/87.]

WAC 173-481-100 Forage standards. (1) All sampling to determine compliance with these standards shall be conducted in locations and during time periods consistent with protecting livestock.

(2) The fluoride content of forage calculated by dry weight shall not exceed:

(a) Forty parts per million fluoride ion (40 ppm F⁻) average for the growing season.

(b) Sixty parts per million fluoride ion (60 ppm F⁻) each month for more than two consecutive months during the growing season.

(c) Eighty parts per million fluoride ion (80 ppm F⁻) more than once in any two consecutive months during the growing season.

[Statutory Authority: RCW 70.94.395 and 70.94.331. 05-17-169 (Order 05-07), § 173-481-100, filed 8/23/05, effective 9/23/05. Statutory Authority: Chapter 70.94 RCW. 87-19-073 (Order 87-21), § 173-481-100, filed 9/16/87.]

WAC 173-481-110 Ambient action levels. (1) All sampling to determine compliance with these action levels shall be conducted in locations and during time periods consistent with protecting vegetation of the type and in areas covered by this chapter.

(2) Gaseous fluorides in the ambient air calculated as HF at standard conditions shall not exceed:

(a) Two and nine-tenths micrograms per cubic meter (2.9 µg/m³) average for any nonoverlapping twenty-four consecutive hours;

(b) One and seven-tenths micrograms per cubic meter (1.7 µg/m³) average for any seven consecutive days;

(c) Eighty-four one-hundredths micrograms per cubic meter (0.84 µg/m³) average for any thirty consecutive days;

(d) Five-tenths micrograms per cubic meter (0.5 µg/m³) average for the growing season.

[Statutory Authority: RCW 70.94.395 and 70.94.331. 05-17-169 (Order 05-07), § 173-481-110, filed 8/23/05, effective 9/23/05. Statutory Authority: Chapter 70.94 RCW. 87-19-073 (Order 87-21), § 173-481-110, filed 9/16/87.]

WAC 173-481-150 Corrective action. (1) When requested by the department, persons emitting fluorides to the ambient air shall demonstrate their compliance with WAC 173-481-100 and 173-481-110 by conducting a monitoring program approved in writing by the department. Monitoring shall be required only in areas with forage or vegetation to be protected by this chapter. Monitored exceedances of the ambient action level shall not require corrective action or be considered violations of this chapter unless there is demonstrated related fluoride induced damage to vegetation protected by this chapter. If an ambient action level is exceeded, the persons emitting fluorides shall provide a plan for ecology approval for determining if damage has occurred. If damage is found the facility shall determine the cause of the damage and take corrective action approved by ecology to prevent further damage. When evaluating corrective action,

work practices shall be considered before considering additional controls.

(2) Concurrent violations of the action levels found in WAC 173-481-100 and 173-481-110 shall not contain overlapping time periods for any one standard or action level.

[Statutory Authority: RCW 70.94.395 and 70.94.331. 05-17-169 (Order 05-07), § 173-481-150, filed 8/23/05, effective 9/23/05. Statutory Authority: Chapter 70.94 RCW. 87-19-073 (Order 87-21), § 173-481-150, filed 9/16/87.]

Chapter 173-505 WAC INSTREAM RESOURCES PROTECTION AND WATER RESOURCES PROGRAM

WAC

173-505-010	General provisions—Authority and applicability.
173-505-020	Purpose.
173-505-030	Definitions.
173-505-040	Establishment of stream management units.
173-505-050	Establishment of instream flows.
173-505-060	Lakes and ponds.
173-505-070	Stream closures.
173-505-080	Future stock watering.
173-505-090	Reservation of permit-exempt ground water for future domestic uses.
173-505-100	Maximum allocations.
173-505-110	Future permitting actions.
173-505-120	Alternative sources of water.
173-505-130	Establishment of trust water rights program.
173-505-140	Future changes and transfers.
173-505-150	Compliance and enforcement.
173-505-160	Appeals.
173-505-170	Regulation review.
173-505-180	Map.

WAC 173-505-010 General provisions—Authority and applicability. (1) This chapter is adopted under the authority of the Water Resources Act of 1971 (chapter 90.54 RCW), Minimum Water Flows and Levels Act (chapter 90.22 RCW), Water Well Construction Act (chapter 18.104 RCW), Water resource management (chapter 90.42 RCW), Regulation of public ground waters (chapter 90.44 RCW), and Water resources management program (chapter 173-500 WAC).

(2) This chapter applies to the use and appropriation of:

(a) All surface waters that drain within the Stillaguamish River basin, also known as water resources inventory area (WRIA) 5, including its tributaries and areas adjacent to the mouth of the Stillaguamish River that drain to salt water; and

(b) All ground water hydraulically connected with surface waters of the Stillaguamish River basin. Existing studies indicate a substantial likelihood that all waters within WRIA 5 are in hydraulic continuity with the surface waters covered herein.

(3) This chapter shall not affect existing water rights, including perfected riparian rights or other appropriative rights existing on the effective date of this chapter, unless otherwise provided for in the conditions of the water right in question.

(4) This chapter shall also not affect federal Indian and non-Indian reserved rights. The Stillaguamish Tribe of Indians and the Tulalip Tribes reserve the right to a claim for a treaty-derived off-reservation instream flow right with senior priority. The extent of such rights can only be adjudicated in federal or state court.

(5) This chapter does not limit the department's authority to establish instream flow requirements or conditions under other laws, including hydropower licensing under RCW 90.48.260.

(6) In accordance with RCW 90.54.090, all agencies of state and local government, including counties and municipal and public corporations, shall, whenever possible, carry out powers vested in them in manners which are consistent with this chapter.

(7) In administering and enforcing this chapter, the department's actions shall be consistent with the provisions of chapter 90.54 RCW.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-18-016 (Order 02-17), § 173-505-010, filed 8/26/05, effective 9/26/05.]

WAC 173-505-020 Purpose. (1) The purpose of this chapter is to retain perennial rivers, streams, and lakes in the Stillaguamish River basin with instream flows and levels necessary to protect and preserve wildlife, fish, scenic, aesthetic, recreation, water quality and other environmental values, navigational values, and stock water requirements.

(2) The chapter creates a reservation of adequate and safe supplies of potable water to satisfy human domestic needs, and reservations for stock watering.

(3) This chapter sets forth the department's policies to guide the protection, utilization and management of Stillaguamish River basin surface water and interrelated ground water resources. It establishes instream flows and closures, and sets forth a program for administration of future water allocation and use. This chapter does not relieve anyone from compliance with relevant statutory requirements.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-18-016 (Order 02-17), § 173-505-020, filed 8/26/05, effective 9/26/05.]

WAC 173-505-030 Definitions. For the purposes of this chapter, the following definitions shall be used. In the event that these definitions differ from those contained in related rules, the definitions presented here will supersede any others for this chapter:

(1) **"Allocation"** means the designating of specific amounts of water for specific beneficial uses.

(2) **"Appropriation"** means the process of legally acquiring the right to specific amounts of water for beneficial uses, as consistent with the requirements of the ground and surface water codes and other applicable water resource statutes. This term refers to both surface and ground water right permits and to ground water withdrawals otherwise exempted from permit requirements under RCW 90.44.050.

(3) **"Consumptive use"** means a use of water that diminishes the amount or quality of water in the water source.

(4) **"Department"** means the Washington state department of ecology.

(5) **"Domestic water use"** means, for the purposes of administering WAC 173-505-090, potable water to satisfy the human domestic needs of a household or business, including water used for drinking, bathing, sanitary purposes, cooking, laundering, and other incidental uses. Outdoor watering shall be limited to an area not to exceed a total of 1/12th of an acre, or three thousand six hundred thirty square feet, for all outdoor uses for each individual domestic water use. Under all circumstances, total outdoor watering for multiple resi-

dences under the permit exemption (RCW 90.44.050) shall not exceed one-half acre.

(6) **"Instream flow"** means a stream flow level set in rule that is required to protect and preserve fish, wildlife, scenic, aesthetic and other environmental values, and navigational values. The term "instream flow" means a base flow under chapter 90.54 RCW, a minimum flow under chapter 90.03 or 90.22 RCW, or a minimum instream flow under chapter 90.82 RCW.

(7) **"Mitigation plan"** means a scientifically sound plan voluntarily submitted by a project proponent to offset the impacts of a proposed water use and approved by the department. A mitigation plan can be submitted to the department for a stream, basin, reach, or other area. A mitigation plan must show that the withdrawal with mitigation in place will not impair existing water rights, including instream flow rights, or diminish water quality. The plan must provide mitigation for the duration of the water use.

(8) **"Municipal water supplier"** means an entity that supplies water for municipal water supply purposes. (RCW 90.03.015.)

(9) **"Municipal water supply purposes"** means a beneficial use of water: (a) For residential purposes through fifteen or more residential service connections or for providing residential use of water for a nonresidential population that is, on average, at least twenty-five people for at least sixty days a year; (b) for governmental or governmental proprietary purposes by a city, town, public utility district, county, sewer district, or water district; or (c) indirectly for the purposes in (a) or (b) of this subsection through the delivery of treated or raw water to a public water system for such use. (Partial definition; for the complete text of this definition refer to RCW 90.03.015.)

(10) **"Nonconsumptive use"** means a use of water that does not diminish the amount or quality of water in the water source.

(11) **"Permit-exempt withdrawals"** or **"permit exemption"** means a ground water withdrawal exempted from permit requirements under RCW 90.44.050, but which is otherwise subject to the ground water code.

(12) **"Reservation"** means an allocation of water for future beneficial uses. The effective date of a reservation, as well as the priority date of a given appropriation from a reservation, is the same as the effective date of this chapter.

(13) **"Stream management unit"** means a stream segment, reach, or tributary used to describe the part of the relevant stream to which a particular instream flow level applies.

(14) **"Withdrawal"** means the appropriation or use of ground water, or the diversion or use of surface water.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-18-016 (Order 02-17), § 173-505-030, filed 8/26/05, effective 9/26/05.]

WAC 173-505-040 Establishment of stream management units. The department hereby establishes the following stream management units.

Table 1
Stream Management Unit Information
 (N.F. is North Fork; S.F. is South Fork)

Stream Management Unit Name	Control Point by River Mile (RM) or Latitude North (Lat.) and Longitude West (Long.)	Stream Management Reach
Stillaguamish Mainstem	Stillaguamish River nr Sylvania Ecology Station #05A070 RM 11.2 Lat. 48 11 49.5, Long. 122 12 32	From the mouth at Port Susan to the confluence of the N.F. of the Stillaguamish River and the S.F. of the Stillaguamish River.
North Fork (N.F.) Stillaguamish River:		
N.F. Stillaguamish River at Arlington, WA	USGS Station #12167000 RM 6.5 Lat. 48 15 42, Long. 122 02 47	From confluence with the S.F. Stillaguamish to river mile 17.6.
N.F. Stillaguamish River at Oso	Ecology Station #05B090 RM 17.6 Lat. 48 16 21, Long. 122 53 17	From river mile 17.6 to headwaters.
South Fork (S. F.) Stillaguamish River:		
S.F. Stillaguamish River	RM 24.4	From confluence with the N.F. Stillaguamish River to RM 34.9.
S.F. Stillaguamish River at Granite Falls, WA	USGS Station #12161000 RM 34.9 Lat. 48 06 12, Long. 121 57 07	From S.F. Stillaguamish River at RM 34.9 to headwaters.
Stillaguamish River Tributaries:		
Church Creek nr Stanwood	Ecology Station #05L070 RM 3 Lat. 48 14 54, Long. 122 18 48	From mouth to headwaters, including tributaries.
Glade Bekken Creek - stream 0030	At the Sylvania Terrace Rd. crossing RM 0.5	From mouth to headwaters, including tributaries.
Portage Creek	At 208th St. NE & 66th Ave. crossing RM 7.0	From mouth to headwaters, including tributaries.

Stream Management Unit Name	Control Point by River Mile (RM) or Latitude North (Lat.) and Longitude West (Long.)	Stream Management Reach
Fish Creek	At Sill Rd. crossing RM 2.0	From mouth to headwaters, including tributaries.
Pilchuck at Bridge 626	Ecology Station #05D070 RM 0.5 Lat. 48 12 49, Long. 122 13 03	From mouth to the Campground Bridge, including tributaries.
Pilchuck Creek above Lake Creek	Ecology Station #05D150 RM 17 Lat. 48 20 35, Long. 122 03 23	From Campground Bridge to headwaters, except Lake Cavanaugh.
Pilchuck Creek Tributaries:		
Lake Creek nr mouth	Ecology Station #05K060 RM 0.2 Lat. 48 20 29, Long. 122 03 18	From mouth to headwaters, including tributaries, except Lake Cavanaugh.
North Fork (N. F.) Stillaguamish River Tributaries:		
Squire Creek at Squire Creek Park	Ecology Station #05H070 RM 1.2 Lat. 48 16 13, Long. 121 40 17	From mouth to headwaters, including tributaries.
Deer Creek nr Oso	Ecology Station #05C090 RM 1.3 Lat. 48 17 03, Long. 121 55 35	From mouth to headwaters, including tributaries.
Brooks Creek	At Brooks Creek Rd. Bridge RM 0.3	From mouth to headwaters, including tributaries.
Montague Creek	At Hwy 530 bridge RM 0.3	From mouth to headwaters, including tributaries.
Rollins Creek	Off C Post off Hwy 530 about RM 1.0	From mouth to headwaters, including tributaries.
Boulder River nr mouth	Ecology Station #05J060 RM 0.5 Lat. 48 16 40, Long. 121 46 52	From mouth to headwaters, including tributaries.

Stream Management Unit Name	Control Point by River Mile (RM) or Latitude North (Lat.) and Longitude West (Long.)	Stream Management Reach
French Creek	At Hwy 530 bridge RM 0.4	From mouth to headwaters, including tributaries.
Segelson Creek	At Swede Haven Rd. bridge off Hwy 530 RM 0.3	From mouth to headwaters, including tributaries.
Furland Creek	At Hwy 530 bridge RM 0.2	From mouth to headwaters, including tributaries.
Ashton Creek	At Hwy 530 bridge RM 0.2	From mouth to headwaters, including tributaries.
Grant Creek	At Hillis Rd. bridge off Hwy 530 RM 0.1	From mouth to headwaters, including tributaries.
Rock Creek	At RM 1.1	From mouth to headwaters, including tributaries.
Koonz Creek - Stream 0138	At WDFW bridge RM 1.5	From mouth to headwaters, including tributaries.
Harvey Creek	At side road crossing of Grandview Rd. RM 1.5	From mouth to headwaters, including tributaries.
South Fork (S. F.) Stillaguamish River Tributaries:		
Jim Creek at Whites Road	Ecology Station #05G070 RM 3.3 Lat. 48 10 41, Long. 122 03 06	From mouth to headwaters, including tributaries.
Siberia Creek, tributary to Jim Creek	At mouth near 131st Ave. NE, RM 0.0	From mouth to headwaters, including tributaries.
Canyon Creek nr Masonic Park	Ecology Station #05F080 RM 5.0 Lat. 48 07 17, Long. 121 54 17	From mouth to headwaters, including tributaries.
Armstrong Creek	At Harvey Creek Rd. crossing RM 1.0	From mouth to headwaters, including tributaries.

Stream Management Unit Name	Control Point by River Mile (RM) or Latitude North (Lat.) and Longitude West (Long.)	Stream Management Reach
Jordan Creek	At Jordan Rd. crossing RM 0.1	From mouth to headwaters, including tributaries.
Tiger Creek - stream 0363	Near Masonic Park, RM 1.6	From mouth to headwaters, including tributaries.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-18-016 (Order 02-17), § 173-505-040, filed 8/26/05, effective 9/26/05.]

WAC 173-505-050 Establishment of instream flows.

(1) Instream flows established in this section protect stream flows from future withdrawals, and preserve flow levels that are necessary to protect wildlife, fish, water quality, scenic, aesthetic and other environmental values, navigational values, and stock watering requirements.

(2) Instream flows established in this section are water rights with a priority date the same as the effective date of this chapter.

(3) Instream flows are expressed in cubic feet per second (cfs). These flows are measured at the control points identified in WAC 173-505-040 and apply to the stream management reach. The instream flow provisions for any water right located in a stream management unit shall specifically describe the instream flow levels for the control station in that unit and shall refer generally to other downstream instream flow requirements that may also become controlling and critical to the use of water under such right.

(4) Instream flows are to be protected from impairment by junior water rights. Except as provided in WAC 173-505-080, 173-505-090, and 173-505-110, junior water rights shall be exercised only when flow conditions provide enough water to satisfy senior rights, including the instream flows set in this chapter. Withdrawals of water that would conflict with the established instream flows shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served.

(5) Stream flow requirements on existing water rights are not modified by this chapter. Existing water rights that include a provision that water use will be subject to future instream flows are now subject to the instream flows established in WAC 173-505-050.

(6) Instream flows are established for the stream management units in WAC 173-505-040, as follows:

Table 2
Instream Flows for the Mainstem and North and South Forks, Stillaguamish River
 (in cubic feet per second) (RM=River Mile)

Month	Day	Ecology Sta- tion #05A070	USGS Station #12167000	Ecology Sta- tion #05B090	USGS Station #12161000
		Stillaguamish RM 11.2	North Fork Stil- laguamish RM 6.5	North Fork Stil- laguamish RM 17.6	South Fork Still- aguamish RM 34.9
Jan.	1-31	2200	1200	915	1200
Feb.	1-29	2000	1200	850	1200
Mar.	1-15	2000	1300	850	1600
	16-31	2000	1300	915	1600
Apr.	1-30	2000	1300	915	1600
May	1-31	2000	1300	915	1600
Jun.	1-15	2000	1300	915	1060
	16-30	2000	1400	650	1060
Jul.	1-15	2000	1100	600	1060
	16-31	2000	800	500	700
Aug.	1-15	1700	800	425	700
	16-31	1700	800	500	700
Sep.	1-15	1700	800	700	700
	16-30	1700	800	850	700
Oct.	1-15	1700	800	870	1200
	16-31	1700	800	870	1700
Nov.	1-15	2200	950	915	1800
	16-30	2200	950	915	1800
Dec.	1-31	2200	1300	915	1800

Table 3
Instream Flows for Tributaries of
the Mainstem and North and South Forks Stillaguamish River Basin
 (in cubic feet per second) (RM=River Mile)

Month	Day	RM 0.5 Pilchuck Creek	RM 17 Pilchuck Creek	RM 1.2 Squire Creek	RM 3.3 Jim Creek	RM 5.0 Canyon Creek	RM 0.3 Lake Creek	RM 1.3 Deer Creek	RM 0.3 Brooks Creek
Jan.	1-31	170	98	200	250	525	21	411	39
Feb.	1-29	170	98	200	250	450	21	411	39
Mar.	1-15	170	98	280	250	450	21	474	68
Mar.	16-31	170	98	280	250	450	21	474	68
Apr.	1-30	170	98	280	250	450	21	474	68
May	1-31	170	98	280	250	450	21	474	68
Jun.	1-15	170	98	280	250	450	21	313	45
Jun.	16-30	170	98	280	250	350	21	313	45
Jul.	1-31	170	98	200	250	350	21	195	45
Aug.	1-31	140	98	200	250	350	21	88	17
Sep.	1-30	170	98	200	250	400	21	353	17
Oct.	1-31	170	98	200	250	525	21	617	39
Nov.	1-15	170	98	160	250	525	21	411	39
Nov.	16-30	170	98	160	250	525	21	411	39
Dec.	1-31	170	98	160	250	525	21	411	39

Table 4
Instream Flows for Tributaries of the Mainstem and North and South Forks Stillaguamish River Basin
 (in cubic feet per second) (RM=River Mile)

Month	Day	RM 0.3 Montague Creek	RM 1.0 Rollins Creek	RM 0.5 Boulder Creek	RM 0.4 French Creek	RM 0.3 Segelson Creek	RM 0.2 Furland Creek	RM 0.2 Ashton Creek	RM 0.1 Grant Creek
Jan.	1-31	29	47	167	56	47	33	34	67
Feb.	1-29	29	47	167	56	47	33	34	67
Mar.	1-15	53	80	203	73	79	44	46	87
Mar.	16-31	53	80	203	73	79	44	46	87

Month	Day	RM 0.3 Montague Creek	RM 1.0 Rollins Creek	RM 0.5 Boulder Creek	RM 0.4 French Creek	RM 0.3 Segelson Creek	RM 0.2 Furland Creek	RM 0.2 Ashton Creek	RM 0.1 Grant Creek
Apr.	1-30	53	80	203	73	79	44	46	87
May	1-31	53	80	203	73	79	44	46	87
Jun.	1-15	35	53	134	48	52	29	30	57
Jun.	16-30	35	53	134	48	52	29	30	57
Jul.	1-31	35	53	134	48	52	29	30	57
Aug.	1-31	12	20	154	18	20	10	10	23
Sep.	1-30	12	47	250	84	47	49	51	101
Oct.	1-31	29	47	167	84	47	49	51	101
Nov.	1-15	29	47	167	56	47	33	34	67
Nov.	16-30	29	47	167	56	47	33	34	67
Dec.	1-31	29	47	167	56	47	33	34	67

Table 5
Instream Flows for Tributaries of the Mainstem and North and South Forks Stillaguamish River Basin
(in cubic feet per second) (RM=River Mile)

Month	Day	RM 3.0 Church Creek	RM 0.5 Glade Bekken Creek	RM 7.0 Portage Creek	RM 2.0 Fish Creek	RM 1.1 Rock Creek	RM 1.5 Koonz Creek
Jan.	1-31	24	10	11	16	29	19
Feb.	1-29	24	10	11	16	29	19
Mar.	1-15	43	21	22	30	53	36
Mar.	16-31	43	21	22	30	53	36
Apr.	1-30	43	21	22	30	53	36
May	1-31	43	21	22	30	53	36
Jun.	1-15	28	14	14	20	35	24
Jun.	16-30	28	14	14	20	35	24
Jul.	1-31	28	14	14	20	35	24
Aug.	1-31	10	4	4	6	12	8
Sep.	1-30	10	4	4	6	29	19
Oct.	1-31	24	10	11	16	29	19
Nov.	1-15	24	10	11	16	29	19
Nov.	16-30	24	10	11	16	29	19
Dec.	1-31	24	10	11	16	29	19

Table 6
Instream Flows for Tributaries of the Mainstem and North and South Forks Stillaguamish River Basin
(in cubic feet per second) (RM=River Mile)

Month	Day	RM 1.5 Harvey Creek	RM 1.0 Armstrong Creek	RM 0.1 Jordan Creek	RM 1.6 Tiger Creek	RM 0.0 Siberia Creek
Jan.	1-31	9	34	18	27	37
Feb.	1-29	9	34	18	27	37
Mar.	1-15	6	46	34	48	49
Mar.	16-31	6	46	34	48	49
Apr.	1-30	6	46	34	48	49
May	1-31	4	46	34	48	49
Jun.	1-15	4	30	22	32	32
Jun.	16-30	4	30	22	32	32
Jul.	1-31	4	30	22	32	32
Aug.	1-31	4	10	7	11	11
Sep.	1-30	4	51	18	11	27
Oct.	1-31	4	51	18	11	55
Nov.	1-15	9	34	18	27	37
Nov.	16-30	9	34	18	27	37
Dec.	1-31	9	34	18	27	37

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-18-016 (Order 02-17), § 173-505-050, filed 8/26/05, effective 9/26/05.]

WAC 173-505-060 Lakes and ponds. RCW 90.54.020(3) provides, in part, that the quality of the natural environment shall be protected, and where possible, enhanced, and lakes and ponds shall be retained substantially in their natural condition. The department has determined that further consumptive withdrawals would impact the lakes and ponds of the Stillaguamish River basin. Therefore, surface withdrawals from all lakes and ponds shall be limited to single in-house domestic uses not to exceed one hundred fifty gallons per day per residence.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-18-016 (Order 02-17), § 173-505-060, filed 8/26/05, effective 9/26/05.]

WAC 173-505-070 Stream closures. (1) The department determines that, based on historical and current low flows and uses, no water is available for additional year-round appropriation from the streams and tributaries in the Stillaguamish River basin. All unappropriated water from the streams and rivers is hereby appropriated for purposes of protecting and preserving fish and wildlife and other instream values, as of the date of this chapter. Therefore, the department closes all the rivers and streams in the Stillaguamish River basin to any further appropriations. This includes all ground water hydraulically connected to those surface waters, the withdrawal of which will have an effect on the flow or level of the rivers and streams.

(2) Exceptions to the closures and instream flow requirements are provided in WAC 173-505-060, 173-505-070(3), 173-505-080, 173-505-090 and 173-505-110.

(3) The department finds that there is some water above the instream flows at specific locations and times of year that could be captured for storage or other projects that do not require year-round, uninterrupted water supplies. Therefore, the water sources described in the table below have water available for the time periods specified. These withdrawals are subject to the instream flows established in WAC 173-505-050 and the maximum allocations defined in WAC 173-505-100(2).

Table 7
Water Source and Open Periods*

Water Source	Open Period
Stillaguamish River from its multiple mouths at Port Susan to the confluence of N.F. Stillaguamish River and S.F. Stillaguamish River (RM 0 to 17.8).	October 16-June 30
N.F. Stillaguamish, from RM 0 (its confluence with the S.F. Stillaguamish) to river mile 17.6.	October 16-June 30
N.F. Stillaguamish River, from RM 17.6 to its headwaters.	November 1-June 30
S.F. Stillaguamish River from its confluence with the N.F. Stillaguamish River (RM 17.8) to RM 34.9.	November 1-June 15

Water Source	Open Period
Pilchuck Creek from mouth to RM 16.4 (confluence of Bear Creek).	October 16-May 31
Squire Creek from mouth to its headwaters.	November 1-February 15, and May 1-June 30
Canyon Creek from mouth to RM 11.8 (confluence of N.F. Canyon Creek and S.F. Canyon Creek).	December 1-May 31
N.F. is North Fork	S.F. is South Fork
RM is river mile	
*Tributaries to the water sources are excluded from the open period unless specifically listed.	

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-18-016 (Order 02-17), § 173-505-070, filed 8/26/05, effective 9/26/05.]

WAC 173-505-080 Future stock watering. (1) Consistent with RCW 90.22.040, the department retains one cubic foot per second of surface water for future stock watering pursuant to the following requirements:

(a) This surface water flow is available to satisfy stock watering requirements for stock on riparian grazing lands which drink directly from streams, lakes or other public waters. Appropriation or use of water from the reservation for stock watering shall be limited to the land base and carrying capacity of the grazing lands next to the stream or water course. The reservation shall not be available for feedlots and other activities which are not related to normal grazing land uses.

(b) The department encourages existing riparian stock water right holders to remove livestock from streams for the purpose of protecting water quality and stream habitat. Uses that meet the following conditions shall be considered to qualify as direct stock watering from a stream:

(i) Small amounts of water are diverted (screened and piped) to nearby stock water tanks for consumption by livestock;

(ii) Stock water tanks shall be located close to the surface water source, and have as short a bypass reach as possible, while providing protection to the water body, stream bank and associated vegetative zone;

(iii) If a float or demand type valve is not used, the tank overflow must return to the same source, at or near the point of diversion;

(iv) The stock tank must serve stock, which normally range that parcel of property; and

(v) The quantity of water consumed from the stock tank should not exceed the quantity consumed if the stock drank directly from the stream.

(c) The decision by a person to divert stock water from the stream and into a tank does not constitute an adjudication of any claim to the right to the use of the water, as between the claimant and the state, or as between one or more water use claimants and another or others.

(2) The department reserves twenty acre-feet per year of ground water for future stock watering.

(3) The department will maintain an estimate of the amount of water used from the reservation, and reserves the right to require metering and reporting of water use to ensure

compliance with the conditions of use for stock watering under this section.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-18-016 (Order 02-17), § 173-505-080, filed 8/26/05, effective 9/26/05.]

WAC 173-505-090 Reservation of permit-exempt ground water for future domestic uses. (1) The department has weighed the public interest supported by providing a limited amount of water for domestic uses with the potential for negative impact to instream flow resources. The department finds that the public interest advanced by this limited reservation clearly overrides the small potential for negative impacts on instream resources (RCW 90.54.020 (3)(a)).

Based on this finding, the department hereby allocates a total amount of water not to exceed five cubic feet per second (5 cfs) to provide adequate and safe supplies of water for year-round future domestic uses. Of that 5 cfs, the reservation is further defined by limits on the amount of reserved water that can be withdrawn from the North and South Forks of the Stillaguamish River, as identified in the following table.

This reservation of ground water is not subject to the instream flows established in WAC 173-505-050 or the stream closures established in WAC 173-505-070.

Table 8
Allocation of Reservation as Measured at Specified River Miles

Water Source (RM - River Mile)	Amount of Water Available, Measured in Cubic Feet per Second (cfs) and Gallons per Day (gpd)
Stillaguamish River at RM 11.2	5 cfs or 3.23 million gpd
Of that 5 cfs, the following maximums may be taken from the specified locations:	
North Fork Stillaguamish River at RM 6.5	2 cfs or 1,292,544 gpd
South Fork Stillaguamish River at RM 24.4	1.5 cfs or 969,408 gpd

(2) Use of water under the reservation is available only if all the conditions set forth in this section are fully complied with. Conditions for use of the reservation water are:

(a) The reserved water shall be for ground water uses exempt from a water right permit application. This reservation is for either single or small group domestic uses, as defined in WAC 173-505-030(5).

(b) This reservation of ground water shall not exceed 3.23 million gallons of water per day (5 cfs).

(c) Domestic water use shall meet the water use efficiency standards of the uniform plumbing code as well as any applicable local or state requirements for conservation standards.

(d) This reservation shall be applicable only when the appropriate city(ies) or counties submit a written acknowledgment to the department that confirms that any legally required determinations of adequate potable water for building permits and subdivision approvals will be consistent with applicable provisions of this chapter.

Once this chapter is adopted and written acknowledgment is received, the department will promptly notify those city(ies) or counties, the tribes, water well contractors and the

public that the reserve is in effect in those jurisdictions where acknowledgments exist.

(e) It shall be the responsibility of an applicant for a building permit or subdivision approval proposing a water use under the reservation to comply with the conditions in (a), (c), (e), (f), (g) and (h) of this subsection and all other conditions of this chapter.

(f) A new ground water withdrawal under this reservation is not allowed in areas where a municipal water supply has been established and a connection can be provided by the municipal supplier. If an applicant for a building permit or subdivision approval cannot obtain water through a municipal supplier, the applicant must obtain a letter from a municipal supplier prior to drilling a well which states that service was denied. Such a denial shall be consistent with the criteria listed in RCW 43.20.260.

(g) Outdoor water use is limited to the watering of an outdoor area not to exceed a total of 1/12th of an acre for all outdoor uses under each individual domestic water use. Under all circumstances, total outdoor watering for multiple residences under the permit exemption (RCW 90.44.050) shall not exceed one-half acre.

(h) The department reserves the right to require metering and reporting of water use for single domestic users, if more accurate water use data is needed for management of the reservation and water resources in the area of the reservation. All other ground water users under the permit-exemption shall be required to install and maintain measuring devices, in accordance with specifications provided by the department, and report the data to the department.

(3) The reservation is a one-time, finite amount of water. Once the reservation is fully allocated, it is no longer available. Other water sources may be available under the provisions in WAC 173-505-110, 173-505-120, 173-505-130 and 173-505-140.

(4) The department shall notify the appropriate county, in writing, when it determines that fifty percent, seventy-five percent, and one hundred percent of the reservation has been allocated. The department shall also issue a public notice annually in a newspaper of general circulation for the region that shows the amounts of reserved water that have been allocated and what remains unallocated, as well as identifying any water source that has been fully allocated and from which water is no longer available under this reservation.

(5) If a water use is not in compliance with any condition of this reservation, the department may take action consistent with WAC 173-505-150.

(6)(a) A record of all ground water withdrawals from the reservation shall be maintained by the department. The department will account for water use under the reservation based on the best available information reflecting actual water uses contained in well logs, water availability certificates issued by the counties, water rights issued by the department, public water system approvals or other documents. When other sources of information are not readily available, the department may account for water use at a rate of three hundred fifty gallons per day (gpd) per residence or business. This figure may be adjusted down to one hundred seventy-five gpd if the residence or business is served by an on-site septic system.

(b) If an entity using water under this reservation subsequently abandons the withdrawal and notifies the department, the water use may be credited back to the reservation.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-18-016 (Order 02-17), § 173-505-090, filed 8/26/05, effective 9/26/05.]

WAC 173-505-100 Maximum allocations. (1) High flows provide critical ecological functions such as channel and riparian zone maintenance, flushing of sediments, and in and out migration of fish. The protection of the frequency and duration of higher ecological flows can be accomplished by establishing a maximum amount of water/flow that can be withdrawn from the stream above the instream flow levels.

(2) Therefore, the department determines that the total consumptive withdrawals from existing and future water rights in the Stillaguamish River basin during open periods shall not exceed a total of 300 cubic feet per second (cfs) as measured at ecology station #05A070, river mile 11.2. Of that 300 cfs, the maximum allocation is further defined by limits on the amount of water that can be withdrawn from specified stream reaches, at specific times. Refer to the table and map, below.

Table 9
Maximum Allocation

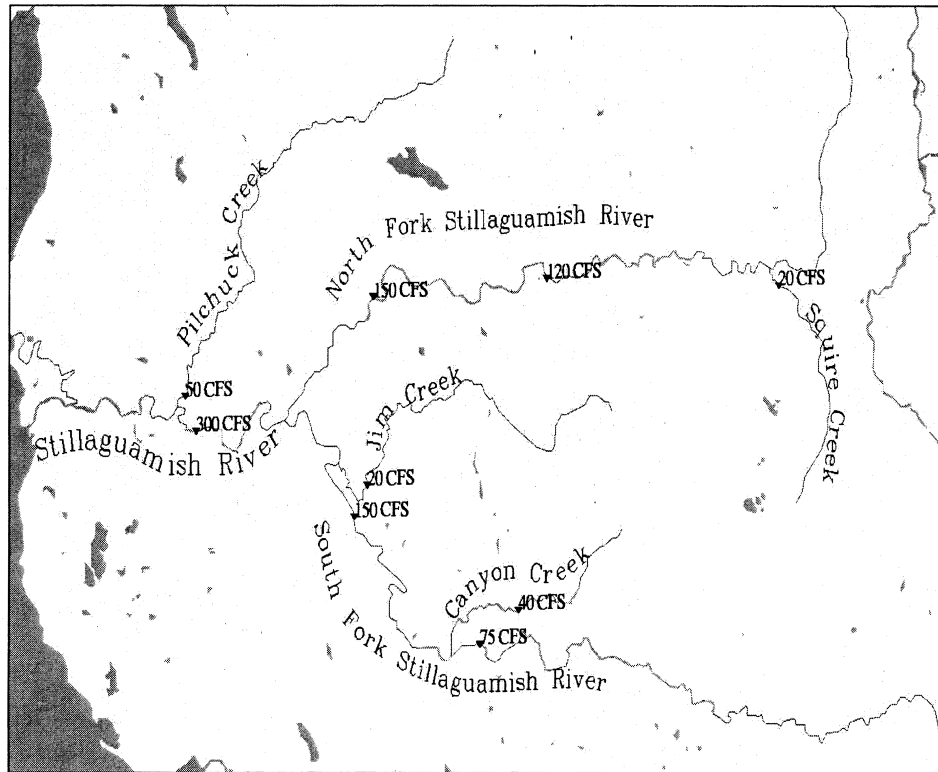
Water Source*	Open Period
Stillaguamish River from its multiple mouths at Port Susan to the confluence of N.F. Stillaguamish River and S.F. Stillaguamish River (RM 0 to 17.8).	October 16-June 30 Maximum Allocation 300 cfs
Of that 300 cfs, the following maximums may be taken from the specified stream reaches at the specified times:	
N.F. Stillaguamish, from RM 0 (its confluence with the S.F. Stillaguamish) to river mile 17.6.	October 16-June 30 Maximum Allocation 150 cfs
N.F. Stillaguamish River, from RM 17.6 to its headwaters.	November 1-June 30 Maximum Allocation 120 cfs
S.F. Stillaguamish River from its confluence with the N.F. Stillaguamish River (RM 17.9) to RM 34.9.	November 1-June 15 Maximum Allocation 150 cfs
Pilchuck Creek from mouth to RM 16.4 (confluence of Bear Creek).	October 16-May 31 Maximum Allocation 50 cfs

Water Source*	Open Period	
Squire Creek from mouth to its headwaters.	November 1-February 15, and May 1-June 30 Maximum Allocation 20 cfs	
Canyon Creek from mouth to RM 11.8 (confluence of N.F. Canyon Creek and S.F. Canyon Creek).	December 1-May 31 Maximum Allocation 40 cfs	
N.F. is North Fork	S.F. is South Fork	RM is river mile

* Tributaries to the water sources are excluded from the open period unless specifically listed.

N.F. is North Fork; **S.F.** is South Fork; **cfs** is cubic feet per second; **confluence** = the juncture of two or more flowing streams

Figure 1
Maximum allocations for specific stream reaches (listed above) in the Stillaguamish River basin, measured at designated control points



(3) All water rights issued after the effective date of this chapter are subject to the maximum allocation limits, the instream flows established in WAC 173-505-050 and other applicable provisions in this chapter. Use of the water must be consistent with the requirements of the surface water code (chapter 90.03 RCW) and other applicable statutory, administrative and case laws.

(4) The department will maintain a record of the amount of water allocated from all water rights in the Stillaguamish River basin, including those existing prior to the effective date of this chapter. When the maximum allocation is fully appropriated for any river, river reach, or stream, the department shall notify the appropriate county, in writing. The department shall also issue a public notice in a newspaper of general circulation for the region stating the maximum allocation is fully allocated.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-18-016 (Order 02-17), § 173-505-100, filed 8/26/05, effective 9/26/05.]

WAC 173-505-110 Future permitting actions. (1) Surface and ground water permits not subject to the instream flows and closures established in WAC 173-505-050 and 173-505-070 may be issued if any of the following situations apply:

(a) The proposed use is nonconsumptive, and compatible with the intent of this chapter.

(b) The applicant elects to submit a scientifically sound mitigation plan, as defined in WAC 173-505-030(7), and it is approved by the department. If monitoring of a mitigation plan shows the mitigation is not effective, use of water under the permit shall then be subject to the instream flows. In the case of a closed stream, the use shall cease until a more effective mitigation plan is put in place.

(c) The proposed ground water use will not impair senior water rights. Based on the hydrogeology of the basin, and the location and depth where ground water withdrawals generally occur, future ground water withdrawals have a high likelihood of capturing water that would result in impacts to surface water flows and levels in the Stillaguamish River basin. Therefore, a ground water permit that is not subject to the instream flows or closures may be approved only if an applicant can demonstrate, through studies and technical analysis, and to the satisfaction of the department, that the proposed use will not cause impairment to existing water rights, including the instream flows set in this chapter.

(d) Before the department can approve a water right application for a new public water supply under (b) or (c) of this subsection, the applicant must also demonstrate that there are no other municipal water suppliers in the same proposed retail service area that can provide water. If domestic potable water can be provided by another municipal supplier, the department shall reject the water right application.

(e) The proposed use is for a salmon recovery project recommended for approval by the department of fish and wildlife.

(2) All water right permits approved by the department for a consumptive use from a water source with instream flows established by this chapter and during open periods are subject to those instream flows, as established in WAC 173-505-050. In addition, the total appropriation cannot exceed the maximum allocation limits described in WAC 173-505-100.

(3) No right to withdraw, divert or store the public surface or ground waters of the Stillaguamish River basin that conflicts with the provisions of this chapter will hereafter be granted, except in cases where such rights will clearly serve overriding considerations of the public interest, as stated in RCW 90.54.020 (3)(a).

(4) All future surface and ground water permit holders shall be required to install and maintain measuring devices, in accordance with specifications provided by the department, and report the data to the department in accordance with the permit requirements. In addition, the department may require the permit holder to monitor stream flows and ground water levels.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-18-016 (Order 02-17), § 173-505-110, filed 8/26/05, effective 9/26/05.]

WAC 173-505-120 Alternative sources of water. (1)

The legislature has long acknowledged that water supply and availability around the state are becoming increasingly limited, particularly during summer and fall months and dry years when demand is greatest. Growth and prosperity have significantly increased the competition for this limited resource (RCW 90.54.090 (1)(a)). This chapter provides limited exceptions for new uses in the Stillaguamish River basin. However, there is a continuing need for ongoing and reliable sources for new water uses. This need dictates the continued development and use of alternative sources of water, such as:

- Reuse of reclaimed water;
- Artificial recharge and recovery;
- Multipurpose water storage facilities;
- Conservation and efficiency measures applied to existing uses and the transfer of saved water;
- Acquisition of existing water rights; and
- Establishment of a trust water rights program.

(2) Alternative sources of water of equal or better quality than a new source can be used to improve stream flows for fish, offset impacts of withdrawals on stream flows and provide sources of water for future out-of-stream uses.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-18-016 (Order 02-17), § 173-505-120, filed 8/26/05, effective 9/26/05.]

WAC 173-505-130 Establishment of trust water rights program. (1) The department will establish a trust water right program to facilitate the acquisition of existing water rights through purchases, long-term leases, donations and conserved water saved through state and federally funded conservation projects.

(2) The determination of how much water should be allocated between future out-of-stream uses and the restoration and enhancement of instream flows will be made at the time

the water is acquired and deposited into the trust water rights program.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-18-016 (Order 02-17), § 173-505-130, filed 8/26/05, effective 9/26/05.]

WAC 173-505-140 Future changes and transfers. No changes or transfers to existing surface or ground water rights in the Stillaguamish River basin shall hereafter be granted that conflict with the purposes or provisions of this chapter. Any change or transfer proposals can be approved only if there is a finding that existing rights, including instream flows hereby established, will not be impaired.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-18-016 (Order 02-17), § 173-505-140, filed 8/26/05, effective 9/26/05.]

WAC 173-505-150 Compliance and enforcement. (1)

In accordance with RCW 90.03.605, in order to obtain compliance with this chapter, the department shall prepare and distribute technical and educational information regarding the scope and requirements of this chapter to the public. This is intended to assist the public in complying with the requirements of their water rights and applicable water laws.

(2) When the department determines that a violation has occurred, it shall:

(a) First attempt to achieve voluntary compliance. An approach to achieving this is to offer information and technical assistance to the person, in writing, identifying one or more means to accomplish the person's purposes within the framework of the law.

(b) If education and technical assistance do not achieve compliance, the department shall issue a notice of violation, a formal administrative order under RCW 43.27A.190, or assess penalties under RCW 43.83B.336, 90.03.400, 90.03.-410, 90.03.600, 90.44.120 and 90.44.130.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-18-016 (Order 02-17), § 173-505-150, filed 8/26/05, effective 9/26/05.]

WAC 173-505-160 Appeals. All final written decisions of the department of ecology pertaining to water right applications, permits, certificates, regulatory orders and related decisions made pursuant to this chapter can be appealed to the pollution control hearings board in accordance with chapter 43.21B RCW.

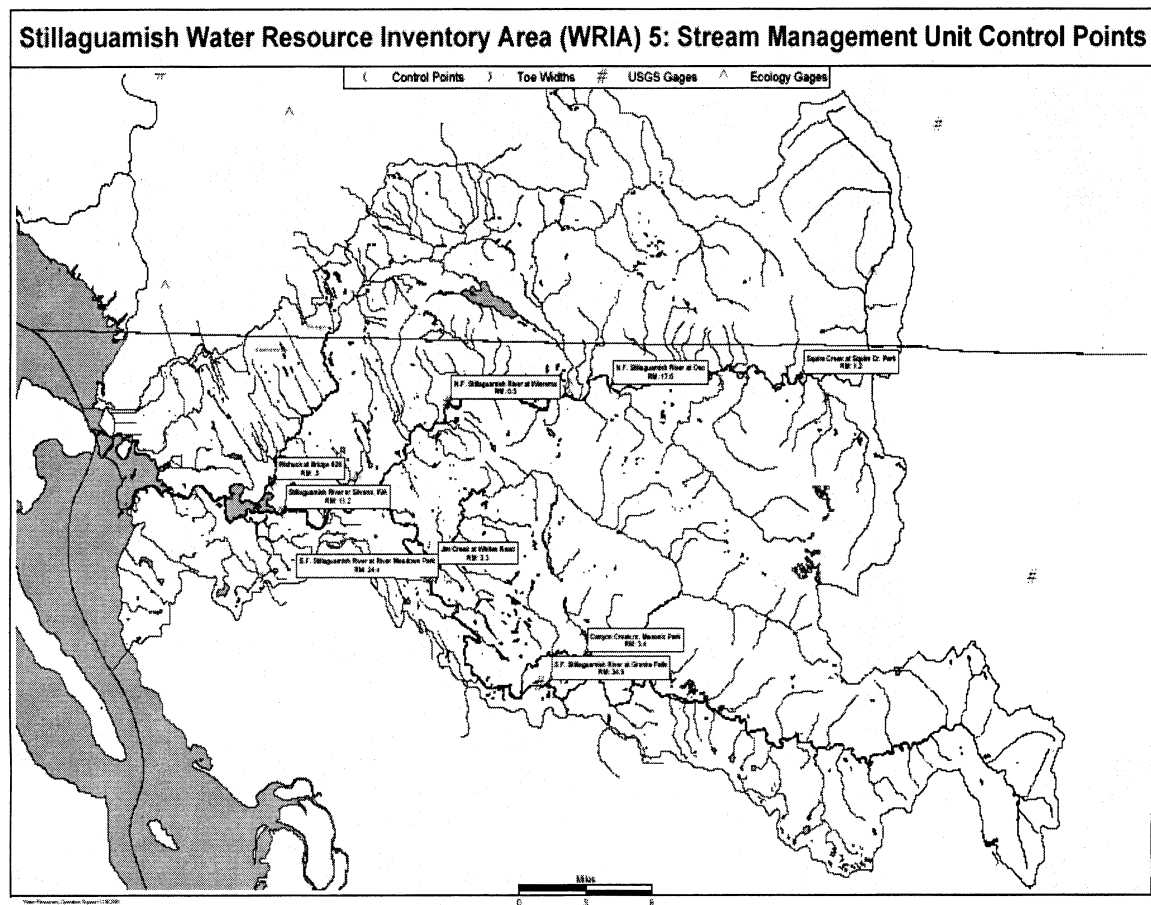
[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-18-016 (Order 02-17), § 173-505-160, filed 8/26/05, effective 9/26/05.]

WAC 173-505-170 Regulation review. Review of this chapter may be initiated by the department whenever significant new information is available, a significant change in conditions occurs, or statutory changes are enacted that are determined by the department to require review of the chapter.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-18-016 (Order 02-17), § 173-505-170, filed 8/26/05, effective 9/26/05.]

WAC 173-505-180 Map. For the purposes of administering this chapter, the boundaries of the Stillaguamish River basin contained in the figure below are presumed to accurately reflect the basin hydrology unless demonstrated otherwise.

Figure 2



[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-18-016 (Order 02-17), § 173-505-180, filed 8/26/05, effective 9/26/05.]

Chapter 173-546 WAC

WATER RESOURCES MANAGEMENT PROGRAM— ENTIAT RIVER BASIN WATER RESOURCE INVENTORY AREA (WRIA) 46

WAC

173-546-010	General provisions—Authority and applicability.
173-546-020	Purpose.
173-546-030	Definitions.
173-546-040	Establishment of stream management units.
173-546-050	Establishment of instream flows.
173-546-060	Lakes and ponds.
173-546-070	Reservation of water for specific future uses.
173-546-080	Maximum future allocation.
173-546-090	Future permitting actions.
173-546-100	Alternative sources of water.
173-546-110	Future changes and transfers.
173-546-120	Compliance and enforcement.
173-546-130	Appeals.
173-546-140	Regulation review.
173-546-150	Map.

WAC 173-546-010 General provisions—Authority and applicability. (1) This chapter is adopted under the authority of the Watershed Planning Act (chapter 90.82 RCW), Water Resources Act of 1971 (chapter 90.54 RCW), Minimum Water Flows and Levels Act (chapter 90.22 RCW), Water resource management (chapter 90.42 RCW),

[2006 WAC Supp—page 278]

Regulation of public ground waters (chapter 90.44 RCW) and the Water resources management program rule (chapter 173-500 WAC).

(2) This chapter, including any subsequent additions and amendments, applies to all surface waters in the Entiat River basin, and all ground water hydraulically connected with those surface waters.

(3) This chapter shall not affect existing water rights, including perfected riparian rights, federal Indian and non-Indian reserved rights, or other appropriative rights existing on the effective date of this chapter, unless otherwise provided for in the conditions of the water right in question.

(4) This chapter does not limit the department's authority to establish flow requirements or conditions under other laws, including hydropower licensing under RCW 90.48.260.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-010, filed 8/3/05, effective 9/3/05.]

WAC 173-546-020 Purpose. (1) In enacting this chapter, the department uses the Entiat watershed plan as the framework for making future water resource decisions for the Entiat watershed, per RCW 90.82.130. The plan recommendations were approved by the Entiat watershed planning unit,

a group composed of a broad base of water use interests, and also by Chelan County officials. The plan recommendations are therefore considered an expression of the public interest.

(2) The chapter creates a reservation for future uses that is senior to the instream flows set in WAC 173-546-050.

(3) This chapter sets forth the department's policies to guide the protection, use and management of Entiat River basin surface water and interrelated ground water resources. It protects existing water rights, establishes instream flows, and sets forth a program for the administration of future water allocation and use.

(4) The purpose of this chapter is to retain perennial rivers, streams, and lakes in the Entiat River basin with the instream flows and levels necessary to protect and preserve wildlife, fish, scenic, aesthetic, recreation, water quality and other environmental values, navigational values, and stock watering requirements.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-020, filed 8/3/05, effective 9/3/05.]

WAC 173-546-030 Definitions. For the purposes of this chapter, the following definitions shall be used:

(1) **"Allocation"** means the designation of specific amounts of water for specific beneficial uses.

(2) **"Appropriation"** means the process of legally acquiring the right to specific amounts of water for beneficial uses, as consistent with the requirements of the ground and surface water codes and other applicable water resource statutes.

(3) **"Beneficial uses"** means uses of water for domestic, stock watering, industrial, commercial, agricultural, irrigation, hydroelectric power production, mining, fish and wildlife maintenance and enhancement, recreational, thermal power production, and preservation of environmental and aesthetic values, and all other uses compatible with the enjoyment of the public waters of the state.

(4) **"Commercial agriculture"** means uses related to commercial orchards and vineyards, and commercial livestock and farming operations.

(5) **"Commercial/light industrial"** means a water supply for use by small businesses and commercial users. It also refers to the "value added" uses associated with agriculture, as defined by the Chelan County Code, Ch. 11.04.010, or any subsequent amendments. A "value added operation" means any activity or process that allows farmers to retain ownership and that alters the original agricultural product or commodity for the purpose of gaining a marketing advantage.

(6) **"Consumptive use"** means a use of water that reduces the amount of water in the water source.

(7) **"Department"** means the Washington state department of ecology.

(8) **"Domestic water use"** means, for the purposes of this chapter, use of water associated with human health and welfare requirements, including water used for drinking, bathing, sanitary purposes, cooking, laundering, irrigation of not over one-half acre of lawn or garden per dwelling, and other incidental household uses. Stock watering is also included in this category. Stock watering uses must be consistent with the Chelan County Code, Section 11.88.030 or any subsequent amendments. It does not apply to feed lots stream management units. The boundaries of the manage-

and other activities which are not related to normal grazing land uses.

(9) **"Existing water right"** includes perfected riparian rights, federal Indian and non-Indian reserved rights or other appropriative rights.

(10) **"Hydraulic continuity"** means the interrelation between ground water (water beneath land surfaces or surface water bodies) and surface water (water above ground, such as lakes and streams).

(11) **"Instream flow"** as used in this chapter, has the same meaning as a minimum instream flow under chapter 90.82 RCW, a base flow under chapter 90.54 RCW, a minimum flow under chapter 90.03 or 90.22 RCW and an administrative flow in the Entiat watershed plan.

(12) **"Nonconsumptive use"** means a use of water that does not reduce the amount of water in the water source.

(13) **"Plan"** or **"watershed plan"** means the Entiat water resource inventory area (WRIA) management plan, approved by the Entiat WRIA planning unit on May 17, 2004, and by the Chelan County commissioners on September 13, 2004.

(14) **"Planning unit"** means the Entiat water resource inventory area (WRIA) planning unit (EWPU), or a successor which is mutually agreed upon by the EWPU. The planning unit was established in 1998 in accordance with chapter 90.82 RCW, Watershed Planning Act. The EWPU presently consists of the landowner steering committee, the Yakama Nation, a technical assistance group, and other interested stakeholders.

(15) **"Public water system"** means any system providing water for human consumption through pipes or other constructed conveyances, excluding a system serving only one single-family residence or a system with four or fewer connections all of which serve residences on the same farm. (Consistent with WAC 246-290-020; any subsequent amendments to WAC 246-290-020 will be incorporated by reference.)

(16) **"Reservation"** means an allocation of water set aside for future domestic, stock watering, agricultural, commercial and industrial beneficial uses. For the purposes of this chapter, the priority date of the reservation is senior to the instream flows set in WAC 173-546-050. "Reservation" is the same as "reserved water" in the Entiat WRIA management plan.

(17) **"Stream management unit"** means a stream segment, reach, or tributary used to describe the part of the relevant stream to which a particular use, action, instream flow level or reserve of water applies. Each of these units contains a control station. A map of the control points is included in this chapter (WAC 173-546-150).

(18) **"Withdrawal"** means the appropriation or use of ground water or surface water.

(19) **"WRIA"** means water resource inventory area. This term can be used interchangeably with "basin" and "watershed."

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-030, filed 8/3/05, effective 9/3/05.]

WAC 173-546-040 Establishment of stream management units. The department hereby establishes the following management units are shown on the map in WAC 173-546-150.

Stream Management Unit Information

Stream Management Unit Name Control Station Gauge #	Control Station by River Mile (RM); Section, Township and Range; Latitude (Lat.) and Longitude (Long.); Hydrologic Unit Code (HUC)	Stream Management Reach Description
USGS Gauge #12452990 Entiat River near Entiat, WA. ("Keystone Gauge") (Lower Entiat)	River Mile 1.4	From the confluence of the Entiat and Columbia rivers to the terminal glacial moraine at RM 16.2, including all tributaries except the Mad River.
	Sec. 18, T.25 N., R.21 E.W.M.	
	Lat. 47°39'48"	
	Long. 120°14'58" NAD 27	
	HUC 17020010	
USGS Gauge #12452800 Entiat River near Ardenvoir, WA (Upper Entiat)	River Mile 18	From the terminal glacial moraine at RM 16.2, to the Entiat River headwaters, including all tributaries.
	Sec. 27, T.27 N., R.19 E.W.M.	
	Lat. 47°49'07"	
	Long. 120°25'19" NAD 27	
	HUC 17020010	
USGS Gauge #12452890, Mad River at Ardenvoir	River Mile 0.35	From the confluence of the Mad River with the Entiat River to the Mad River headwaters, including all tributaries.
	Sec.19, T.26, R.20 E.W.M.	
	Lat. 47°44'13"	
	Long. 120°22'03" NAD 27	
	HUC 17020010	

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-040, filed 8/3/05, effective 9/3/05.]

WAC 173-546-050 Establishment of instream flows.

(1) The instream flows established in this chapter are based on the recommendations of the Entiat planning unit and public input received during the rule-making process. These instream flows are established in accordance with RCW 90.82.080, and are necessary to meet the water resource management and ecosystem maintenance objectives of the Entiat watershed plan. Instream flows can serve to protect senior water rights.

(2) Instream flows established in this chapter protect stream flows from future withdrawals, and preserve flow levels that are necessary to protect wildlife, fish, water quality, scenic, aesthetic and other environmental values, navigational values, and stock watering requirements. In addition to protecting instream resources, instream flows serve to protect senior water rights.

(3) Instream flows established here are water rights. In accordance with RCW 90.82.080 (2)(a), the planning unit determined by unanimous vote that the priority date of the instream flows is the effective date of this chapter.

(4) All water rights established after the priority date of the instream flows, and not covered under the reservation, are expressly subject to these instream flows. Water rights junior to the instream flow may be exercised when flow or ground water conditions will provide enough water to satisfy senior rights, including the instream flows. Withdrawals of water which would conflict with instream flows shall be authorized only in situations where it is clear that the overriding considerations of the public interest will be served.

(5) The reservation of water established in WAC 173-546-070 will have a priority date senior to the instream flows. Full use of the reservation will not diminish the protective levels established by the instream flows in WAC 173-546-050, and is necessary to meet the water resource management and ecosystem maintenance objectives under chapters 90.82 and 90.54 RCW.

(6) Instream flows are expressed in cubic feet per second (cfs). Instream flows are measured at the control stations identified in WAC 173-546-040.

(7) Instream flows are established for the stream management units in WAC 173-546-040, as follows:

Instream Flows in the Entiat River Basin

(cubic feet per second)

Month	Days	USGS Gauge #12452990 Lower Entiat nr. Entiat, RM 1.4	USGS Gauge #12452800 Upper Entiat nr. Ardenvoir, RM 18	USGS Gauge #12452890 Mad River at Ardenvoir RM 0.35
January	1-31	185	175	32
February	1-29	185	175	32
March	1-15	185	175	32
	16-31	250	285	68
April	1-15	250	325	100
	16-30	350	375	100
May	1-15	474	375	100

Month	Days	USGS Gauge #12452990 Lower Entiat nr. Entiat, RM 1.4	USGS Gauge #12452800 Upper Entiat nr. Ardenvoir, RM 18	USGS Gauge #12452890 Mad River at Ardenvoir RM 0.35
	16-31	720	375	100
June	1-15	898	325	100
	16-30	617	325	100
July	1-15	359	275	68
	16-31	268	275	68
August	1-15	185	275	68
	16-31	185	275	51
September	1-30	185	175	32
October	1-31	185	175	32
November	1-30	185	175	32
December	1-31	185	175	32

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-050, filed 8/3/05, effective 9/3/05.]

WAC 173-546-060 Lakes and ponds. In accordance with RCW 90.54.020(3), lakes and ponds in the Entiat watershed shall be retained substantially in their natural condition, including those in the Wenatchee National Forest.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-060, filed 8/3/05, effective 9/3/05.]

WAC 173-546-070 Reservation of water for specific future uses. (1) Using the watershed plan as a primary expression of public interest, and consistent with the authority under RCW 90.54.050(1) and 90.82.130(4), the department determines that there is water available, and hereby reserves an amount of surface and ground water, up to five cubic feet per second (5 cfs), for specific future beneficial uses.

(a) The priority date for uses under the reservation is the effective date of this chapter.

(b) The reservation is not subject to the instream flows established in WAC 173-546-050.

(c) Beneficial uses eligible for the reservation include domestic, stock watering, commercial agriculture, and commercial/light industrial uses, consistent with the recommendations of the planning unit and the framework established by the Entiat watershed plan. The 5 cfs of reserved water use will be monitored at the USGS Gauge No. 12452990 (Entiat near Entiat, river mile 1.4), identified in the watershed plan as the "Keystone" gauge. Allocation of water from the reservation will be made as follows.

(2) Domestic and stock watering. The department may allocate up to 1 cfs for these uses. This amount is available for appropriation anywhere within the Entiat River basin.

(a) Outdoor irrigation. The department may allocate water for up to one-half acre of lawn or noncommercial garden from the domestic and stock watering reserve.

(3) Commercial agriculture. The department may allocate up to 3 cfs for these uses. This amount is available for appropriation only in the Lower Entiat stream management unit as identified in WAC 173-546-040, generally being within the lower 16.2 river miles of the Entiat River watershed, and downstream of the area known as the "Stillwater" reach.

(4) Commercial and light industrial uses. The department may allocate up to 1 cfs for these uses. This amount is

available for appropriation only in the Lower Entiat stream management unit as identified in WAC 173-546-040, generally being within the lower 16.2 river miles of the Entiat River watershed, and downstream of the area known as the "Stillwater" reach.

(5) A water right permit issued from the reserve must be consistent with the requirements of RCW 90.03.290.

(6) All water uses from the reserve must be implemented using water use efficiency and conservation practices, consistent with the watershed plan.

(7) This reservation of water shall only be put to beneficial use within the stream management units defined by this chapter. Applications for the withdrawal of water for purposes outside of the stream management units defined in this chapter shall be denied by the department.

(8) A record of all withdrawals from the reservation shall be maintained by the department. For accounting purposes, the department shall use the assumptions and estimates outlined in the plan, which include:

(a) In-house domestic uses: A per capita net use of thirty-five gallons per day.

(b) Outdoor irrigation shall be consistent with the guidelines in Tables 4-14 and 4-15 (below), and with other relevant information as it becomes available.

(c) Commercial agriculture: The consumptive amount of the beneficial use shall be consistent with the crop irrigation requirement specified in Tables 4-14 and 4-15 (below), and with other relevant information as it becomes available. The consumptive amount shall also be consistent, when appropriate, with any amount of conveyance water made unavailable to the river through irrigation bypass.

Table 4-14. Monthly tree water use¹(ac-in) at WSU Tree Fruit Research Center, 1972-2002.

YEAR	APR	MAY	JUN	JUL	AUG	SEP	OCT ²	SEASON TOTAL
1972	2.03	5.18	7.47	9.20	8.03	4.43	2.00	38.34
1973	2.28	5.40	9.22	11.48	9.80	4.60	2.00	44.78
1974	1.74	4.57	8.69	9.21	8.95	5.21	2.00	40.37
1975	1.72	5.26	8.33	10.49	8.88	4.66	2.00	41.34
1976	1.84	2.82	7.86	10.04	6.71	4.84	2.00	36.11
1977	1.69	4.49	6.67	8.32	5.43	4.32	2.00	32.92
1978	1.92	5.18	8.07	10.20	8.25	4.63	2.00	40.25
1979	2.10	3.78	8.11	9.45	8.31	3.28	2.00	37.03
1980	1.66	4.52	6.25	9.72	7.06	3.61	2.00	34.82
1981	1.61	4.26	6.19	8.53	7.63	3.76	2.00	33.98
1982	1.61	4.60	7.18	8.06	6.74	3.22	2.00	33.41
1983	1.44	5.20	6.66	7.18	6.53	3.89	2.00	32.90
1984	1.47	3.92	6.42	9.86	7.89	3.26	2.00	34.82
1985	1.72	5.18	8.34	10.71	7.93	3.13	2.00	39.01
1986	1.74	4.65	7.69	8.56	7.97	4.08	2.00	36.69
1987	1.88	4.75	7.30	8.28	8.09	4.46	2.00	36.76
1988	1.56	4.22	6.38	10.06	7.57	4.16	2.00	35.95
1989	1.79	4.47	7.65	9.40	7.13	4.43	2.00	36.87
1990	1.78	3.91	6.69	9.39	6.83	4.55	2.00	35.15
1991	1.87	4.21	6.41	10.00	7.42	4.48	2.00	36.39
1992	2.08	6.34	8.58	8.75	7.65	4.22	2.00	39.62
1993	1.10	4.75	6.36	7.46	7.20	3.90	2.00	32.77
1994	1.69	4.74	8.23	12.41	8.53	4.67	2.00	42.27
1995	1.47	5.28	7.90	10.52	7.90	4.66	2.00	39.73
1996	1.53	4.34	8.54	11.02	9.58	4.65	2.00	41.66
1997	1.14	4.27	7.22	9.16	7.30	3.48	2.00	34.57
1998	1.49	3.66	7.81	9.52	8.29	4.75	2.00	37.52
1999	1.60	4.57	8.03	9.31	7.26	4.00	2.00	36.77
2000	1.65	4.38	8.02	9.85	8.56	3.66	2.00	38.12
2001	1.39	4.98	7.06	10.23	7.65	4.35	2.00	37.66
2002	1.49	4.12	7.69	9.83	7.82	3.81	2.00	36.76
MO. AVG. SINCE 1972	1.68	4.58	7.52	9.55	7.77	4.17	2.00	37.27 ac-in

1. Data have already been adjusted using pan evaporation & KC value to approximate orchard tree water use.
 2. The October value of 2 acre-inches was estimated based on miscellaneous October measurements provided by the WSU Tree Fruit Research Center, and conversations with Tim Smith, WSU Cooperative Extension. April through September values are based on data collected by T. Smith.
- * Note: Actual irrigation rates must be 10 to 40% higher than tree use, depending on irrigation efficiency

(This table is from the watershed plan, based on the *State of Washington Irrigation Guide* and supplemented by Washington State Tree Fruit Research data collected in Wenatchee WA.)

Table 4-15. Average monthly tree and pasture/turf irrigation water use (ac-in) estimates.

Description of Value	Apr	May	Jun	Jul	Aug	Sep	Oct	Season (ac-in)
Average tree fruit water use by month, based on 1972-2002 WSU data.	1.68	4.58	7.52	9.55	7.77	4.17	2.00	37.27
Average tree water use by month, with 65% application efficiency.	2.58	7.05	11.57	14.69	11.95	6.42	3.08	57.34
Average Pasture/Turf water use by month (85% of WSU tree fruit water use avg. value).	1.43	3.89	6.39	8.12	6.60	3.54	1.70	31.68
Average Pasture/Turf water use by month, with 65% efficiency.	2.20	5.99	9.83	12.49	10.16	5.45	2.62	48.74

(This table is from the watershed plan, based on the *State of Washington Irrigation Guide* and supplemented by Washington State Tree Fruit Research data collected in Wenatchee WA.)

(d) Commercial and light industrial: The consumptive amount shall be the amount needed for the specific purpose, as determined by the department and/or the Chelan-Douglas health district.

(9) Since all uses from the reserve will have the same priority date, the following will guide water supply decisions in times of water shortage:

(a) Among the three use categories: Domestic and stock-watering uses will be met first, followed by commercial agriculture and finally commercial/light industrial.

(b) Within each use category, the date of first beneficial use will be used. The use with the earliest date will be satisfied first.

(10) The reservation is created in the context of the year 2025 planning horizon of the watershed plan. Future water supplies may also be available concurrently, using alternative water sources such as storage, reuse and conservation (WAC 173-546-100).

(11) The reservation will be evaluated by the department and the Entiat planning unit no less than every five years: 2010, 2015, and 2020. The allocated and unallocated amounts for each use will be reviewed, as well as the allocated and unallocated amounts for the entire reserve. Modifications to the program may therefore be implemented by rule, if needed.

(12) The department shall notify both Chelan County and the planning unit or its successor, in writing, when it determines that fifty percent, seventy-five percent, and one hundred percent, respectively, of the reservation is allocated. The department shall also issue a public notice in a newspaper of general circulation for the region at the same three junctures.

(13) The department shall require metering and reporting for permitted surface and ground water allocations from the reservation. If more accurate water use data is needed the department may, after consulting with the EWPU (or its successor) and Chelan County, require metering and reporting for ground water withdrawals otherwise exempted from per-

mit requirements under RCW 90.44.050. Public water system providers will be required to meter.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-070, filed 8/3/05, effective 9/3/05.]

WAC 173-546-080 Maximum future allocation.

(1)(a) The department determines that there are certain times when there are surface waters above the instream flows, referred to as "high flows." These high flows provide critical ecological functions such as channel and riparian zone maintenance, flushing of sediments, and fish migration. In order to protect the frequency and duration of these higher flows, the department hereby establishes maximum amounts of water/flow that can be withdrawn from specific streams at specific times above the instream flow levels.

(b) A maximum allocation shall be used to review future applications for beneficial uses from the mainstem Entiat and Mad rivers for the periods and in the amounts specified below:

(i) The maximum allocation from May 1 - June 30 is 100 cfs. Of that 100 cfs, 25 cfs may be allocated from the Mad River.

(ii) For the period of July 1-15, the maximum allocation is 67 cfs from the mainstem Entiat only.

(iii) For the period of April 16-30, the maximum allocation is 25 cfs from the Mad River only.

(iv) For the periods during which it is clear that no water is likely to be available above the instream flows, no maximum allocation amount is indicated.

Maximum Future Allocation, Entiat River Basin

Month	Days	Total Maximum Allocation, Mainstem Entiat (in cfs). Measured at USGS Gauge #12452990, Entiat River nr. Entiat, RM 1.4	Portion of Maximum Allocation Available From Mad River (in cfs). Measured at USGS Gauge #12452890, Mad River at Ardenvoir, RM 0.35
January	1-31		
February	1-29		
March	1-31		
April	1-15		
	16-30		25
May	1-15	100	25
	16-31	100	25
June	1-15	100	25
	16-30	100	25
July	1-15	67	
	16-31		
August	1-31		
September	1-30		
October	1-31		
November	1-30		
December	1-31		

(2) The designation of a maximum allocation does not constitute a determination that water is available, as defined in RCW 90.03.290. A determination of water availability requires the application of four tests: Water is available; the use will not impair senior rights; water will be put to beneficial use; and the use is not detrimental to the public interest. Establishment of a water right from the allocation occurs

after proper authorization from the department and after the water is first put to beneficial use. The water rights are subject to the instream flows established in WAC 173-546-050, and other provisions established in statutory, administrative and case law.

(3) The department shall require the metering and reporting of all permitted surface and ground water withdrawals from the maximum allocation.

(4) The department will maintain a record of the amount of water allocated from the Entiat and Mad Rivers. If the maximum amounts are fully appropriated, the department shall notify Chelan County and the planning unit or its successor, in writing. The department shall also issue a public notice in a newspaper of general circulation for the region.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-080, filed 8/3/05, effective 9/3/05.]

WAC 173-546-090 Future permitting actions. (1)

Surface and ground water permits not subject to the instream flows established in WAC 173-546-050 may be issued if:

(a) The proposed use is nonconsumptive, and compatible with the intent of this chapter.

(b) The water use qualifies for the reservation established in WAC 173-546-070.

(2)(a) Future applications for surface waters that are not part of the reserve established in WAC 173-546-070 may be approved subject to the instream flows established in WAC 173-546-050 and the maximum water allocation limits established in WAC 173-546-080.

(b) Future applications for ground waters that are not part of the reservation established in WAC 173-546-070 may be approved subject to the instream flows established in WAC 173-546-050 and the maximum water allocation limits established in WAC 173-546-080. Based upon the findings in the watershed plan, the department determines that there is hydraulic continuity between surface water and ground water sources within both the Lower and Upper Entiat River management units established in WAC 173-546-040. Therefore, water rights shall be issued for ground water only if the department determines that the withdrawal of ground water with proposed mitigation in place would not interfere with or impair the instream flows or the maximum water allocation.

(3) No right to withdraw or store the public surface or ground waters of the Entiat River basin that conflict with the provisions of this chapter will hereafter be granted, except in cases where such rights will clearly serve overriding considerations of the public interest, as stated in RCW 90.54.020 (3)(a).

(4) All future surface and ground water permit holders shall be required to install and maintain measuring devices and report the data to the department in accordance with permit requirements. In addition, the department may require the permit holder to monitor stream flows and ground water levels.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-090, filed 8/3/05, effective 9/3/05.]

WAC 173-546-100 Alternative sources of water. (1)

The legislature, in enacting chapter 90.82 RCW, required that strategies for increasing water supplies must be developed as part of the watershed plans. Such strategies may also be implemented through the watershed planning process. WAC 173-546-070 provides a limited reservation of water for specific new uses in the Entiat River basin. However, the ongoing need for reliable sources of new water continues. This

need dictates the continued development and use of alternative sources of water, such as:

- Multipurpose water storage facilities;
- Conservation and efficiency measures applied to existing uses and the transfer of saved water; and
- Acquisition, leasing, establishment of a trust water rights program (including water banking).

(2) Alternative sources of water of equal or better quality than the proposed source can be used to improve stream flows for fish, offset impacts of withdrawals on stream flows and provide sources of water for future out-of-stream uses.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-100, filed 8/3/05, effective 9/3/05.]

WAC 173-546-110 Future changes and transfers. No

changes to, or transfers of, existing surface and ground water rights in the Entiat River basin shall hereafter be granted if they conflict with the purpose of this chapter. Any change or transfer proposal can be approved only if there is a finding that existing rights, including the instream flows established in WAC 173-546-050, will not be impaired.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-110, filed 8/3/05, effective 9/3/05.]

WAC 173-546-120 Compliance and enforcement. (1)

To obtain compliance with this chapter the department, with assistance from Chelan County, the planning unit or its successor and partners, shall prepare and distribute technical and educational information regarding the scope and requirements of this chapter to the public. This is intended to assist the public in complying with the requirements of their water rights and applicable water laws.

(2) When the department determines that a violation has occurred, it shall first attempt to achieve voluntary compliance. An approach to achieving this is to offer information and technical assistance to the person, in writing, identifying one or more means to accomplish the person's purposes within the framework of the law.

(3) To obtain compliance and enforce this chapter, the department may impose such sanctions as appropriate under authorities vested in it, including, but not limited to, issuing regulatory orders under RCW 43.27A.190; and imposing civil penalties under RCW 43.83B.336, 90.03.400, 90.03.-410, 90.03.600, 90.44.120 and 90.44.130.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-120, filed 8/3/05, effective 9/3/05.]

WAC 173-546-130 Appeals. All final written decisions of the department pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter can be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-130, filed 8/3/05, effective 9/3/05.]

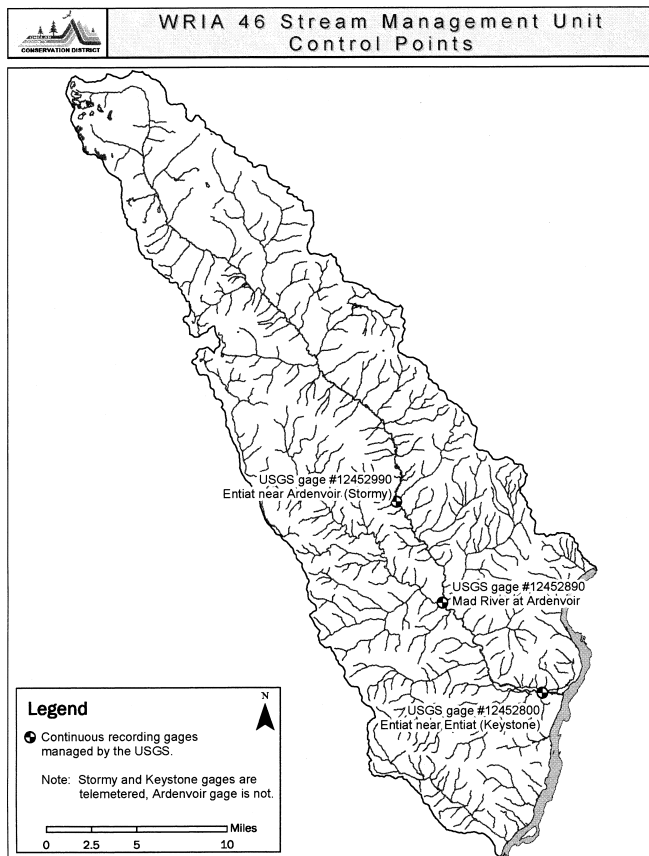
WAC 173-546-140 Regulation review. Review of this chapter may be initiated by the department whenever significant new information is available, a significant change in conditions occurs, statutory changes are enacted that are determined by the department to require review of the chap-

ter, or if modifications are necessary based on the review described in WAC 173-546-070. Chelan County, the planning unit, or other interested citizens with standing may request that the department initiate a review at any time. If the department initiates a review, it will consult with Chelan County and the planning unit or its successor. If necessary, the department will modify the appropriate provisions of this chapter by rule.

The reservation will be evaluated by the department and the Entiat planning unit no less than every five years: 2010, 2015, and 2020. The allocated and unallocated amounts for each use will be reviewed, as well as the allocated and unallocated amounts for the entire reserve. Modifications to the program may therefore be implemented by rule, if needed.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-140, filed 8/3/05, effective 9/3/05.]

WAC 173-546-150 Map. For the purposes of administering this chapter, the boundaries of the Entiat River basin identified in the figure below are presumed to accurately reflect the basin hydrology.



[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. 05-16-114 (Order 04-11), § 173-546-150, filed 8/3/05, effective 9/3/05.]

Title 180 WAC

EDUCATION, STATE BOARD OF

Chapters

180-16	State support of public schools.
180-20	School bus driver qualifications.
180-24	School district organization.
180-27	State assistance in providing school plant facilities—Basic state support.
180-33	State assistance in providing school plant facilities—Modernization.
180-38	Pupils—Immunization requirement and life-threatening health condition.
180-46	Library media centers.
180-50	Courses of study and equivalencies.
180-51	High school graduation requirements.
180-55	School accreditation.
180-57	Secondary education—Standardized high school transcript.
180-105	Performance improvement goals.

DISPOSITION OF CHAPTERS FORMERLY CODIFIED IN THIS TITLE

Chapter 180-10 ACCESS TO PUBLIC RECORDS

180-10-001	Purpose. [Statutory Authority: RCW 28A.04.120, 42.17.010, 42.17.020, 47.17.250 [42.17.250] through 42.17.340. 80-06-092 (Order 6-80), § 180-10-001, filed 5/29/80.] Repealed by 05-23-047, filed 11/9/05, effective 12/10/05. Statutory Authority: RCW 28A.305.130, 42.17.010, and 42.17.250 through [42.17.340].
180-10-003	Description of organization. [Statutory Authority: RCW 28A.305.010 and 28A.305.130. 96-01-066, § 180-10-003, filed 12/15/95, effective 1/15/96. Statutory Authority: 1990 c 33. 90-17-009, § 180-10-003, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW 42.17.250. 83-08-016 (Order 1-83), § 180-10-003, filed 3/29/83. Statutory Authority: RCW 28A.04.120, 42.17.010, 42.17.020, 42.17.250 through 42.17.340. 80-06-092 (Order 6-80), § 180-10-003, filed 5/29/80.] Repealed by 05-23-047, filed 11/9/05, effective 12/10/05. Statutory Authority: RCW 28A.305.130, 42.17.010, and 42.17.250 through [42.17.340].
180-10-005	Operations and procedures. [Statutory Authority: RCW 28A.305.010 and 28A.305.130. 96-01-066, § 180-10-005, filed 12/15/95, effective 1/15/96. Statutory Authority: RCW 28A.04.120, 42.17.010, 42.17.020, 47.17.250 [42.17.250] through 42.17.340. 80-06-092 (Order 6-80), § 180-10-005, filed 5/29/80.] Repealed by 05-23-047, filed 11/9/05, effective 12/10/05. Statutory Authority: RCW 28A.305.130, 42.17.010, and 42.17.250 through [42.17.340].
180-10-007	Definitions. [Statutory Authority: RCW 28A.305.010 and 28A.305.130. 96-01-066, § 180-10-007, filed 12/15/95, effective 1/15/96.] Repealed by 05-23-047, filed 11/9/05, effective 12/10/05. Statutory Authority: RCW 28A.305.130, 42.17.010, and 42.17.250 through [42.17.340].
180-10-010	Access to public records. [Statutory Authority: RCW 28A.305.010 and 28A.305.130. 96-01-066, § 180-10-010, filed 12/15/95, effective 1/15/96. Statutory Authority: RCW 28A.04.120, 42.17.010, 42.17.020, 47.17.250 [42.17.250] through 42.17.340. 80-06-092 (Order 6-80), § 180-10-010, filed 5/29/80.] Repealed by 05-23-047, filed 11/9/05, effective 12/10/05. Statutory Authority: RCW 28A.305.130, 42.17.010, and 42.17.250 through [42.17.340].
180-10-015	Public records officer. [Statutory Authority: RCW 28A.305.010 and 28A.305.130. 96-01-066, § 180-10-015, filed 12/15/95, effective 1/15/96.] Repealed by 05-23-047, filed 11/9/05, effective 12/10/05. Statutory

- Authority: RCW 28A.305.130, 42.17.010, and 42.17.250 through [42.17.]340.
- 180-10-020 Office hours. [Statutory Authority: RCW 28A.305.010 and 28A.305.130. 96-01-066, § 180-10-020, filed 12/15/95, effective 1/15/96.] Repealed by 05-23-047, filed 11/9/05, effective 12/10/05. Statutory Authority: RCW 28A.305.130, 42.17.010, and 42.17.250 through [42.17.]340.
- 180-10-025 Requests for public records. [Statutory Authority: RCW 28A.305.010 and 28A.305.130. 96-01-066, § 180-10-025, filed 12/15/95, effective 1/15/96.] Repealed by 05-23-047, filed 11/9/05, effective 12/10/05. Statutory Authority: RCW 28A.305.130, 42.17.010, and 42.17.250 through [42.17.]340.
- 180-10-030 Copying. [Statutory Authority: RCW 28A.305.010 and 28A.305.130. 96-01-066, § 180-10-030, filed 12/15/95, effective 1/15/96.] Repealed by 05-23-047, filed 11/9/05, effective 12/10/05. Statutory Authority: RCW 28A.305.130, 42.17.010, and 42.17.250 through [42.17.]340.
- 180-10-035 Determination regarding exempt records. [Statutory Authority: RCW 28A.305.010 and 28A.305.130. 96-01-066, § 180-10-035, filed 12/15/95, effective 1/15/96.] Repealed by 05-23-047, filed 11/9/05, effective 12/10/05. Statutory Authority: RCW 28A.305.130, 42.17.010, and 42.17.250 through [42.17.]340.
- 180-10-040 Review of denials of public record requests. [Statutory Authority: RCW 28A.305.010 and 28A.305.130. 96-01-066, § 180-10-040, filed 12/15/95, effective 1/15/96.] Repealed by 05-23-047, filed 11/9/05, effective 12/10/05. Statutory Authority: RCW 28A.305.130, 42.17.010, and 42.17.250 through [42.17.]340.
- 180-10-045 Protection of public records. [Statutory Authority: RCW 28A.305.010 and 28A.305.130. 96-01-066, § 180-10-045, filed 12/15/95, effective 1/15/96.] Repealed by 05-23-047, filed 11/9/05, effective 12/10/05. Statutory Authority: RCW 28A.305.130, 42.17.010, and 42.17.250 through [42.17.]340.

Reviser's note: Later promulgation, see chapter 180-08 WAC.

Chapter 180-41 PUPIL SAFETY

- 180-41-010 Evacuation of buildings in sudden emergency—Regulatory provisions relating to RCW 28A.305.130(1). [Statutory Authority: 1990 c 33. 90-17-009, § 180-41-010, filed 8/6/90, effective 9/6/90; Order 10-70, § 180-41-010, filed 10/22/70.] Repealed by 05-23-045, filed 11/9/05, effective 12/10/05.
- 180-41-015 Evacuation of buildings in sudden emergency—Responsibilities of school authorities. [Order 10-70, § 180-41-015, filed 10/22/70.] Repealed by 05-23-045, filed 11/9/05, effective 12/10/05.
- 180-41-020 Evacuation of buildings in sudden emergency—Classroom instruction. [Order 10-70, § 180-41-020, filed 10/22/70.] Repealed by 05-23-045, filed 11/9/05, effective 12/10/05.
- 180-41-025 Evacuation of buildings in sudden emergency—Out-of-class traffic. [Order 10-70, § 180-41-025, filed 10/22/70.] Repealed by 05-23-045, filed 11/9/05, effective 12/10/05.
- 180-41-030 Evacuation of buildings in sudden emergency—School personnel. [Order 10-70, § 180-41-030, filed 10/22/70.] Repealed by 05-23-045, filed 11/9/05, effective 12/10/05.
- 180-41-035 Evacuation of buildings in sudden emergency—Emergency exit drills. [Order 10-70, § 180-41-035, filed 10/22/70.] Repealed by 05-23-045, filed 11/9/05, effective 12/10/05.
- 180-41-040 Evacuation of buildings in sudden emergency—Exit alarm and recall signal systems. [Order 10-70, § 180-41-040, filed 10/22/70.] Repealed by 05-23-045, filed 11/9/05, effective 12/10/05.
- 180-77-003 Definitions. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-003, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010. 98-01-026, § 180-77-003, filed 12/8/97, effective 1/8/98; 97-04-085, § 180-77-003, filed 2/5/97, effective 3/8/97; 95-12-056, § 180-77-003, filed 6/2/95, effective 7/3/95. Statutory Authority: RCW 28A.70.005. 78-10-003 (Order 11-78), § 180-77-003, filed 9/7/78.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77-003.
- 180-77-005 Types of career and technical education certificates. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-005, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010. 95-12-056, § 180-77-005, filed 6/2/95, effective 7/3/95. Statutory Authority: RCW 28A.70.005. 78-10-003 (Order 11-78), § 180-77-005, filed 9/7/78.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77-005.
- 180-77-012 Levels of career and technical education instructional certificates. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-012, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010. 95-12-056, § 180-77-012, filed 6/2/95, effective 7/3/95.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77-012.
- 180-77-014 Requirements for limited certification. [Statutory Authority: RCW 28A.410.010. 03-23-038, § 180-77-014, filed 11/12/03, effective 12/13/03. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-014, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77-014, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010. 98-01-026, § 180-77-014, filed 12/8/97, effective 1/8/98; 95-12-056, § 180-77-014, filed 6/2/95, effective 7/3/95.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77-014.
- 180-77-015 Certificate validity and renewal. [Statutory Authority: RCW 28A.410.010. 95-12-056, § 180-77-015, filed 6/2/95, effective 7/3/95. Statutory Authority: RCW 28A.70.005. 78-10-003 (Order 11-78), § 180-77-015, filed 9/7/78.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77-015.
- 180-77-020 Certificate required. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-020, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010. 95-12-056, § 180-77-020, filed 6/2/95, effective 7/3/95. Statutory Authority: RCW 28A.70.005. 78-10-003 (Order 11-78), § 180-77-020, filed 9/7/78.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77-020.
- 180-77-025 Personnel assignment. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-025, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010. 98-01-026, § 180-77-025, filed 12/8/97, effective 1/8/98. Statutory Authority: RCW 28A.70.005. 78-10-003 (Order 11-78), § 180-77-025, filed 9/7/78.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77-025.
- 180-77-031 Requirements for candidates seeking career and technical education certification who have completed approved college/university programs in a career and technical education endorsement area. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-031, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77-031, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010. 98-01-026, § 180-77-031, filed 12/8/97, effective 1/8/98; 97-04-085, § 180-77-031, filed 2/5/97, effective 3/8/97; 95-12-056, § 180-77-031, filed 6/2/95, effective 7/3/95.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77-031.

Chapter 180-77 STANDARDS FOR CAREER AND TECHNICAL EDUCATION CERTIFICATION

- 180-77-001 Authority. [Statutory Authority: RCW 28A.410.010. 95-12-056, § 180-77-001, filed 6/2/95, effective 7/3/95.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77-001.
- 180-77-002 Purpose. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-002, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010. 95-12-056, § 180-77-002, filed

180-77-041	Requirements for candidates seeking career and technical education certification on the basis of business and industry work experience. [Statutory Authority: RCW 28A.410.010. 02-18-039, § 180-77-041, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-041, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77-041, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010. 98-01-026, § 180-77-041, filed 12/8/97, effective 1/8/98; 97-04-085, § 180-77-041, filed 2/5/97, effective 3/8/97; 95-12-056, § 180-77-041, filed 6/2/95, effective 7/3/95.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77-041.	018, § 180-77-122, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010. 99-01-172, § 180-77-122, filed 12/23/98, effective 1/23/99; 95-12-056, § 180-77-122, filed 6/2/95, effective 7/3/95.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77-122.
180-77-068	Requirements for coordinator of work-based learning initial or continuing certificates. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 03-14-119, § 180-77-068, filed 6/30/03, effective 7/31/03; 02-04-018, § 180-77-068, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010. 95-12-056, § 180-77-068, filed 6/2/95, effective 7/3/95.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77-068.	
180-77-070	Specific standards for certification of local career and technical education administrative personnel. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-070, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010. 95-12-056, § 180-77-070, filed 6/2/95, effective 7/3/95. Statutory Authority: RCW 28A.70.005. 78-10-003 (Order 11-78), § 180-77-070, filed 9/7/78.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77-070.	
180-77-075	Levels, validity and standards for certification of local career and technical education counselors. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-075, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77-075, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010. 95-12-056, § 180-77-075, filed 6/2/95, effective 7/3/95. Statutory Authority: RCW 28A.70.005. 78-10-003 (Order 11-78), § 180-77-075, filed 9/7/78.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77-075.	
180-77-080	Levels, validity and standards for certification of occupational information specialist. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-080, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010. 95-12-056, § 180-77-080, filed 6/2/95, effective 7/3/95. Statutory Authority: RCW 28A.70.005. 78-10-003 (Order 11-78), § 180-77-080, filed 9/7/78.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77-080.	
180-77-110	Career and technical education instructor certification reciprocity. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-110, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77-110, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010. 95-12-056, § 180-77-110, filed 6/2/95, effective 7/3/95. Statutory Authority: RCW 28A.410.050(2). 92-05-039, § 180-77-110, filed 2/12/92, effective 3/14/92.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77-110.	
180-77-120	Out-of-state candidates. [Statutory Authority: RCW 28A.410.010. 04-23-005, § 180-77-120, filed 11/4/04, effective 12/5/04. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-120, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010. 01-18-043, § 180-77-120, filed 8/29/01, effective 9/29/01; 98-01-026, § 180-77-120, filed 12/8/97, effective 1/8/98; 97-04-085, § 180-77-120, filed 2/5/97, effective 3/8/97; 95-12-056, § 180-77-120, filed 6/2/95, effective 7/3/95.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77-120.	
180-77-122	Appeal procedures. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-	
<p style="text-align: center;">Chapter 180-77A APPROVAL STANDARDS FOR CAREER AND TECHNICAL EDUCATION TEACHER PREPARATION PROGRAMS BASED ON BUSINESS AND INDUSTRY WORK EXPERIENCE</p>		
180-77A-003	Authority. [Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-003, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77A-003.	
180-77A-004	Overview. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77A-004, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77A-004, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-004, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77A-004.	
180-77A-006	Purpose. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77A-006, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77A-006, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-006, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77A-006.	
180-77A-025	Program approval. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77A-025, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77A-025, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-025, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77A-025.	
180-77A-029	Procedures for initial approval of a career and technical education teacher preparation program for candidates applying under WAC 180-77-041. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77A-029, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77A-029, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-12-014, § 180-77A-029, filed 5/21/99, effective 6/21/99. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-029, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77A-029.	
180-77A-030	Length of time for which a career and technical education teacher preparation program based on business and industry work experience shall be approved. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77A-030, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77A-030, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-030, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77A-030.	
180-77A-033	Probationary status for a career and technical education teacher preparation program based on business and industry work experience. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77A-033, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77A-033, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-033, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77A-033.	

180-77A-037	Procedures for reestablishment of approval status for a career and technical education teacher preparation program based on business and industry work experience. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77A-037, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77A-037, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-037, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77A-037.
180-77A-040	Responsibilities of the designated program administrator. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77A-040, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77A-040, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-040, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77A-040.
180-77A-057	Approval of a career and technical education teacher preparation program based on business and industry work experience offered by an out-of-state provider within the state applicable to certification. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77A-057, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77A-057, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-057, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77A-057.
180-77A-080	Substitute pay for members of program advisory committees. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-12-014, § 180-77A-080, filed 5/21/99, effective 6/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77A-080.
180-77A-165	General standards for all career and technical education teacher certification based on business and industry work experience. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77A-165, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77A-165, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-165, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77A-165.
180-77A-175	Work experience program standards. [Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-175, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77A-175.
180-77A-180	Career and technical education teacher preparation specialty standards. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77A-180, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77A-180, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-180, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77A-180.
180-77A-195	Course work/internship waiver. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77A-195, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77A-195, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-195, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-77A-195.

Chapter 180-78A APPROVAL STANDARDS FOR PERFORMANCE-BASED PREPARATION PROGRAMS FOR TEACHERS, ADMINISTRATORS, AND EDUCATIONAL STAFF ASSOCIATES	
180-78A-003	Authority. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-003, filed 12/23/98, effective 1/23/99. Statutory Authority: RCW 28A.305.130. 97-04-084, § 180-78A-003, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-003.
180-78A-005	Purpose. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-23-023, § 180-78A-005, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-005, filed 12/23/98, effective 1/23/99. Statutory Authority: RCW 28A.305.130. 97-04-084, § 180-78A-005, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-005.
180-78A-007	Minimum state standards. [Statutory Authority: RCW 28A.305.130. 97-04-084, § 180-78A-007, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-007.
180-78A-010	Definition of terms. [Statutory Authority: RCW 28A.401.010 [28A.410.010]. 04-21-038, § 180-78A-010, filed 10/15/04, effective 11/15/04. Statutory Authority: RCW 28A.305.130 and 28A.410.010. 02-18-037, § 180-78A-010, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 01-19-080, § 180-78A-010, filed 9/19/01, effective 10/20/01; 00-03-049, § 180-78A-010, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-010, filed 12/23/98, effective 1/23/99. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 98-01-025, § 180-78A-010, filed 12/8/97, effective 1/8/98. Statutory Authority: RCW 28A.305.130. 97-04-084, § 180-78A-010, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-010.
180-78A-025	Program approval. [Statutory Authority: RCW 28A.305.130. 97-04-084, § 180-78A-025, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-025.
180-78A-100	Existing approved programs. [Statutory Authority: RCW 28A.410.010. 05-15-052, § 180-78A-100, filed 7/12/05, effective 8/12/05; 05-04-056, § 180-78A-100, filed 1/28/05, effective 2/28/05. Statutory Authority: RCW 28A.401.010 [28A.410.010]. 04-21-038, § 180-78A-100, filed 10/15/04, effective 11/15/04. Statutory Authority: RCW 28A.305.130 and 28A.410.010. 04-04-090, § 180-78A-100, filed 2/3/04, effective 3/5/04; 02-18-037, § 180-78A-100, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.305.130 (1) and (2). 00-09-049, § 180-78A-100, filed 4/14/00, effective 5/15/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-100, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-100.
180-78A-105	Procedures for initial approval of an educator preparation program. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-105, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-105.
180-78A-110	Length of time for which program approval status shall be granted. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-23-023, § 180-78A-110, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-110, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-110.
180-78A-115	Probationary status. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-115, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed

	12/29/05, effective 1/1/06. Recodified as WAC 181-78A-115.		
180-78A-120	Procedures for reestablishment of approval status for an educator preparation program. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-120, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-120.	180-78A-225	Acceptance of alternative standards. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-225, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-225.
180-78A-130	Approval of preparation program offered by an out-of-state college or university within the state applicable to certification. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-130, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-130.	180-78A-250	Approval standard—Professional education advisory board. [Statutory Authority: RCW 28A.410.010. 03-19-020, § 180-78A-250, filed 9/5/03, effective 10/6/03. Statutory Authority: RCW 28A.305.130 and 28A.410.010. 02-18-037, § 180-78A-250, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.305.130 (1) through (4). 01-13-106, § 180-78A-250, filed 6/20/01, effective 7/21/01. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-250, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-250.
180-78A-136	Responsibilities of deans, directors, or other designated administrators. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-136, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-136.	180-78A-255	Approval standard—Accountability. [Statutory Authority: RCW 28A.305.130 (1) through (4). 02-04-014, § 180-78A-255, filed 1/24/02, effective 2/24/02; 01-13-106, § 180-78A-255, filed 6/20/01, effective 7/21/01. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-255, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-255.
180-78A-151	Preparation of superintendents. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-151, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-151.	180-78A-261	Approval standard—Unit governance and resources. [Statutory Authority: RCW 28A.305.130 (1) through (4). 02-04-014, § 180-78A-261, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-261, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-261.
180-78A-200	Basic skills. [Statutory Authority: RCW 28A.305.130 and 28A.410.010. 02-18-037, § 180-78A-200, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-200, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-200.	180-78A-264	Approval standard—Program design. [Statutory Authority: RCW 28A.410.010. 05-23-040, § 180-78A-264, filed 11/9/05, effective 12/10/05; 04-21-038, § 180-78A-264, filed 10/15/04, effective 11/15/04. Statutory Authority: RCW 28A.410.010. 03-19-021, § 180-78A-264, filed 9/5/03, effective 10/6/03. Statutory Authority: RCW 28A.305.130 (1) through (4). 02-04-014, § 180-78A-264, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010, 28A.305.130 (1) and (2). 01-03-153, § 180-78A-264, filed 1/24/01, effective 2/24/01; 99-23-023, § 180-78A-264, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-264, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-264.
180-78A-205	Required professional education advisory board. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-205, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-205.	180-78A-270	Approval standard—Knowledge and skills. [Statutory Authority: RCW 28A.401.010 [28A.410.010]. 04-21-038, § 180-78A-270, filed 10/15/04, effective 11/15/04. Statutory Authority: RCW 28A.410.010. 04-04-089, § 180-78A-270, filed 2/3/04, effective 3/5/04. Statutory Authority: RCW 28A.305.130 and 28A.410.010. 02-18-037, § 180-78A-270, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-78A-270, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-23-023, § 180-78A-270, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-270, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-270.
180-78A-207	Qualification to be appointed to professional education advisory boards. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-207, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-207.	180-78A-272	Approval of residency certificate preparation programs for principals/program administrators, school psychologists, school counselors and school social workers. [Statutory Authority: RCW 28A.410.010. 04-20-089, § 180-78A-272, filed 10/5/04, effective 11/5/04.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-272.
180-78A-209	Professional education advisory boards—Membership. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-78A-209, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2). 01-03-151, § 180-78A-209, filed 1/24/01, effective 2/24/01; 00-09-046, § 180-78A-209, filed 4/14/00, effective 5/15/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-209, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-209.	180-78A-307	Course work/internship waiver. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-307, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051,
180-78A-210	Joint professional education advisory board. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-210, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-210.		
180-78A-215	Substitute pay for members of professional education advisory boards. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-215, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-215.		
180-78A-220	Program approval standards for approved preparation programs. [Statutory Authority: RCW 28A.305.130 (1) through (4). 02-04-014, § 180-78A-220, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-23-023, § 180-78A-220, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-220, filed 12/23/98, effective 1/23/99.] Decodified		

	filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-307.		
180-78A-308	Special consideration for certain former para-educators. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-308, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-308.		
180-78A-310	Program approval—Teachers, collaboration with K-12 schools. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-23-023, § 180-78A-310, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-310, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-310.	180-78A-507	Overview—Principal/program administrator professional certificate programs. [Statutory Authority: RCW 28A.410.010. 05-23-042, § 180-78A-507, filed 11/9/05, effective 12/10/05; 04-21-039, § 180-78A-507, filed 10/15/04, effective 11/15/04; 04-04-010, § 180-78A-507, filed 1/23/04, effective 2/23/04. Statutory Authority: RCW 28A.305.130 and 28A.410.010. 02-18-037, § 180-78A-507, filed 8/26/02, effective 9/26/02.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-507.
180-78A-315	Program approval requirement—Field experience for school counselors. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-315, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-315.	180-78A-509	Overview—Educational staff associate—School counselor/school psychologist/school social worker professional certificate programs. [Statutory Authority: RCW 28A.401.010 [28A.410.010]. 04-21-038, § 180-78A-509, filed 10/15/04, effective 11/15/04.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-509.
180-78A-317	Program approval requirement—Field experience for school psychologists. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-317, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-317.	180-78A-510	Responsibilities of the professional certificate administrator. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 00-03-049, § 180-78A-510, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-510, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-510.
180-78A-319	Program approval requirement—Field experience for school social workers. [Statutory Authority: RCW 28A.410.010. 05-15-022, § 180-78A-319, filed 7/7/05, effective 8/7/05; 04-21-038, § 180-78A-319, filed 10/15/04, effective 11/15/04.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-319.	180-78A-515	Program approval standards for professional certificate approved programs. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 00-03-049, § 180-78A-515, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-515, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-515.
180-78A-325	Program approval requirement—Field experience for all administrators. [Statutory Authority: RCW 28A.305.130 and 28A.410.010. 02-18-037, § 180-78A-325, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-325, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-325.	180-78A-520	Approval standard—Professional education advisory board. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 00-03-049, § 180-78A-520, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-520, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-520.
180-78A-330	Demographic information. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-330, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-330.	180-78A-525	Approval standard—Accountability. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 00-03-049, § 180-78A-525, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-525, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-525.
180-78A-400	Internship standards—State-funded administrator interns. [Statutory Authority: RCW 28A.305.130 and 28A.410.010. 02-18-037, § 180-78A-400, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-400, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-400.	180-78A-530	Approval standard—Resources. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 00-03-049, § 180-78A-530, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-530, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-530.
180-78A-500	Professional certificate program approval. [Statutory Authority: RCW 28A.401.010 [28A.410.010]. 04-21-038, § 180-78A-500, filed 10/15/04, effective 11/15/04. Statutory Authority: RCW 28A.305.130 and 28A.410.010. 02-18-037, § 180-78A-500, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.305 [28A.305.130] (1) and (2). 00-13-064, § 180-78A-500, filed 6/16/00, effective 7/17/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-500, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-500.	180-78A-535	Approval standard—Program design. [Statutory Authority: RCW 28A.410.010. 05-15-051, § 180-78A-535, filed 7/12/05, effective 8/12/05; 04-21-038, § 180-78A-535, filed 10/15/04, effective 11/15/04. Statutory Authority: RCW 28A.210.160. 03-23-037, § 180-78A-535, filed 11/12/03, effective 12/13/03. Statutory Authority: RCW 28A.410.010. 03-04-025, § 180-78A-505, filed 1/27/03, effective 2/27/03. Statutory Authority: RCW 28A.305.130 and 28A.410.010. 02-18-037, § 180-78A-505, filed 8/26/02,
180-78A-505	Overview—Teacher professional certificate program. [Statutory Authority: RCW 28A.410.010 [28A.410.010]. 05-15-054, § 180-78A-505, filed 7/12/05, effective 8/12/05. Statutory Authority: RCW 28A.210.160. 03-23-037, § 180-78A-505, filed 11/12/03, effective 12/13/03. Statutory Authority: RCW 28A.410.010. 03-04-025, § 180-78A-505, filed 1/27/03, effective 2/27/03. Statutory Authority: RCW 28A.305.130 and 28A.410.010. 02-18-037, § 180-78A-505, filed 8/26/02,		effective 9/26/02. Statutory Authority: RCW 28A.410.010. 02-14-111, § 180-78A-505, filed 7/2/02, effective 8/2/02. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 00-03-049, § 180-78A-505, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-505, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-505.

	03-049, § 180-78A-535, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-535, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-535.		06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-105.
180-78A-540	Approval standard—Knowledge and skills. [Statutory Authority: RCW 28A.410.010. 04-24-074, § 180-78A-540, filed 11/30/04, effective 12/31/04. Statutory Authority: RCW 28A.401.010 [28A.410.010]. 04-21-038, § 180-78A-540, filed 10/15/04, effective 11/15/04. Statutory Authority: RCW 28A.305.130 and 28A.410.010. 02-18-037, § 180-78A-540, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 00-03-049, § 180-78A-540, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-540, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-540.	180-79A-110	Denial of application for certification or endorsement by approved professional preparation training institutions. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-110, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-110.
		180-79A-115	Validity date. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-115, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-115.
		180-79A-117	Uniform expiration date. [Statutory Authority: RCW 28A.410.010 and 28A.305.130. 04-04-088, § 180-79A-117, filed 2/3/04, effective 3/5/04. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 03-14-120, § 180-79A-117, filed 6/30/03, effective 7/31/03; 02-04-018, § 180-79A-117, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-117, filed 12/23/98, effective 1/23/99. Statutory Authority: RCW 28A.410.010. 98-05-024, § 180-79A-117, filed 2/6/98, effective 3/9/98; 97-04-088, § 180-79A-117, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-117.
180-78A-700	First peoples' language/culture certification pilot program—Findings, purposes and intent—Definitions—Pilot program established—Tribal eligibility to participate—Pilot program requirements—Assignment of teachers—Reports. [Statutory Authority: RCW 28A.305.130 and 28A.410.010. 03-04-026, § 180-78A-700, filed 1/27/03, effective 2/27/03.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-78A-700.	180-79A-120	Certificate replacement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-120, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-120.
Chapter 180-79A STANDARDS FOR TEACHER, ADMINISTRATOR, AND EDUCATIONAL STAFF ASSOCIATE CERTIFICATION		180-79A-123	Certificates—Previous standards. [Statutory Authority: RCW 28A.410.010. 05-23-043, § 180-79A-123, filed 11/9/05, effective 12/10/05; 05-15-050, § 180-79A-123, filed 7/12/05, effective 8/12/05; 00-09-048, § 180-79A-123, filed 4/14/00, effective 5/15/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-123, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-123.
180-79A-003	Authority. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-003, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-003.	180-79A-124	Application for certification. [Statutory Authority: RCW 28A.410.010, 28A.305.130 (1) and (2). 01-03-153, § 180-79A-124, filed 1/24/01, effective 2/24/01. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-124, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-124.
180-79A-006	Purpose. [Statutory Authority: RCW 28A.410.010. 04-20-091, § 180-79A-006, filed 10/5/04, effective 11/5/04; 00-03-048, § 180-79A-006, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-006, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-006.	180-79A-127	Renewal of certificate. [Statutory Authority: RCW 28A.410.010. 03-15-121, § 180-79A-127, filed 7/22/03, effective 8/22/03. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-127, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-127.
180-79A-007	Public policy purposes of state board of education performance-based certification system. [Statutory Authority: RCW 28A.410.010. 00-03-048, § 180-79A-007, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-007, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-007.	180-79A-128	Temporary permits. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-128, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-128.
180-79A-011	Knowledge and skill requirements of the performance-based certification system—Teachers. [Statutory Authority: RCW 28A.410.010 [28A.410.010]. 05-15-054, § 180-79A-011, filed 7/12/05, effective 8/12/05. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-011, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-011.	180-79A-130	Fee for certification. [Statutory Authority: RCW 28A.410.010. 05-23-043, § 180-79A-130, filed 11/9/05, effective 12/10/05. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 05-15-024, § 180-79A-130, filed 7/7/05, effective 8/7/05. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-79A-130, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010. 01-09-005, § 180-79A-130, filed 4/5/01, effective 5/6/01; 00-03-048, § 180-79A-130, filed 1/14/00, effective 2/14/00; 97-04-088, § 180-79A-130, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-130.
180-79A-030	Definitions. [Statutory Authority: RCW 28A.410.010. 05-04-055, § 180-79A-030, filed 1/28/05, effective 2/28/05; 04-04-011, § 180-79A-030, filed 1/23/04, effective 2/23/04; 02-04-015, § 180-79A-030, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010, 28A.305.130 (1) and (2). 01-03-153, § 180-79A-030, filed 1/24/01, effective 2/24/01; 99-23-023, § 180-79A-030, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-030, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-030.	180-79A-131	Use of fee for certification. [Statutory Authority: RCW 28A.305.130 and 28A.410.010. 02-18-037, § 180-79A-131, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-131, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-131.
180-79A-105	Equivalency of standards. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-23-023, § 180-79A-105, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-105, filed 2/5/97, effective 3/8/97.] Decodified by		

180-79A-140	Types of certificates. [Statutory Authority: RCW 28A.305.130 and 28A.410.010. 04-20-092, § 180-79A-140, filed 10/5/04, effective 11/5/04; 02-18-037, § 180-79A-140, filed 8/26/02, effective 9/26/02; 02-13-027, § 180-79A-140, filed 6/12/02, effective 7/13/02. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-79A-140, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010. 00-13-063, § 180-79A-140, filed 6/16/00, effective 7/17/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-23-023, § 180-79A-140, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-140, filed 12/23/98, effective 1/23/99. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-140, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-140.		
180-79A-145	Levels of certificates, initial/residency and continuing/professional. [Statutory Authority: RCW 28A.410.010. 05-23-042, § 180-79A-145, filed 11/9/05, effective 12/10/05. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 05-15-023, § 180-79A-145, filed 7/7/05, effective 8/7/05. Statutory Authority: RCW 28A.401.010 [28A.410.010]. 04-21-040, § 180-79A-145, filed 10/15/04, effective 11/15/04. Statutory Authority: RCW 28A.305.130 and 28A.410.010. 02-18-037, § 180-79A-145, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.410.010. 01-09-004, § 180-79A-145, filed 4/5/01, effective 5/6/01; 00-03-048, § 180-79A-145, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-145, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-145.	180-79A-211	Academic and experience requirements for certification—Administrators. [Statutory Authority: RCW 28A.410.010. 05-23-041, § 180-79A-211, filed 11/9/05, effective 12/10/05. Statutory Authority: RCW 28A.305.130 and 28A.410.010. 02-18-037, § 180-79A-211, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-79A-211, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010. 01-03-152, § 180-79A-211, filed 1/24/01, effective 2/24/01. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-23-023, § 180-79A-211, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-211, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-211.
180-79A-150	General requirements—Teachers, administrators, educational staff associates. [Statutory Authority: RCW 28A.305.130 and 28A.410.010. 02-18-037, § 180-79A-150, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-79A-150, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-23-023, § 180-79A-150, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-150, filed 12/23/98, effective 1/23/99. Statutory Authority: RCW 28A.410.010. 98-01-030, § 180-79A-150, filed 12/8/97, effective 1/8/98; 97-04-088, § 180-79A-150, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-150.	180-79A-213	Issues of abuse course work requirement for continuing certification—Administrators. [Statutory Authority: RCW 28A.410.010. 04-04-011, § 180-79A-213, filed 1/23/04, effective 2/23/04. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-23-023, § 180-79A-213, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-213, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-213.
180-79A-155	Good moral character and personal fitness—Necessary supporting evidence by applicants. [Statutory Authority: RCW 28A.410.010. 03-04-022, § 180-79A-155, filed 1/27/03, effective 2/27/03; 01-09-006, § 180-79A-155, filed 4/5/01, effective 5/6/01. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-23-023, § 180-79A-155, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-155, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-155.	180-79A-221	Academic and experience requirements for certification—School counselors, school psychologists, and school social workers. [Statutory Authority: RCW 28A.401.010 [28A.410.010]. 04-21-040, § 180-79A-221, filed 10/15/04, effective 11/15/04. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-221, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-221.
180-79A-157	Affidavits from applicants. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-157, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-157.	180-79A-223	Academic and experience requirements for certification—School nurse, school occupational therapist, school physical therapist and school speech-language pathologist or audiologist. [Statutory Authority: RCW 28A.410.010. 04-04-012, § 180-79A-223, filed 1/23/04, effective 2/23/04; 99-14-012, § 180-79A-223, filed 6/24/99, effective 7/25/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-223, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-223.
180-79A-206	Academic and experience requirements for certification—Teachers. [Statutory Authority: RCW 28A.410.010. 04-04-011, § 180-79A-206, filed 1/23/04, effective 2/23/04; 02-14-111, § 180-79A-206, filed 7/2/02, effective 8/2/02. Statutory Authority: RCW 28A.410.010, 28A.305.130 (1) and (2). 01-03-153, § 180-79A-206, filed 1/24/01, effective 2/24/01. Statutory Authority: RCW 28A.410.010. 00-03-048, § 180-79A-206, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-206, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051,	180-79A-226	Issues of abuse course work requirement for continuing or professional certification—Educational staff associate. [Statutory Authority: RCW 28A.401.010 [28A.410.010]. 04-21-040, § 180-79A-226, filed 10/15/04, effective 11/15/04. Statutory Authority: RCW 28A.410.010. 04-04-011, § 180-79A-226, filed 1/23/04, effective 2/23/04. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-23-023, § 180-79A-226, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-226, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-226.
		180-79A-231	Limited certificates. [Statutory Authority: RCW 28A.410.010. 04-20-090, § 180-79A-231, filed 10/5/04, effective 11/5/04; Readopted by 03-14-115, § 180-79A-231, filed 6/30/03, effective 7/31/03; 03-12-035, § 180-79A-231, filed 5/30/03, effective 6/30/03. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 02-13-027, § 180-79A-231, filed 6/12/02, effective 7/13/02. Statutory Authority: RCW 28A.410.010. 00-13-063, § 180-79A-231, filed 6/16/00, effective 7/17/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-23-023, § 180-79A-231, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-231, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-231.

180-79A-250	Initial/residency and continuing/professional certificates—Renewal, reinstatement, and continuing education requirements. [Statutory Authority: RCW 28A.410.010.05-23-043, § 180-79A-250, filed 11/9/05, effective 12/10/05; 05-15-053, § 180-79A-250, filed 7/12/05, effective 8/12/05; 04-21-040, § 180-79A-250, filed 10/15/04, effective 11/15/04. Statutory Authority: RCW 28A.305.130 and 28A.410.010.02-18-037, § 180-79A-250, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.410.010.01-13-111, § 180-79A-250, filed 6/20/01, effective 7/21/01; 01-09-004, § 180-79A-250, filed 4/5/01, effective 5/6/01; 00-03-048, § 180-79A-250, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-250, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-250.	79A-302, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-302.
180-79A-253	Reinstatement of certificates. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2), 99-23-023, § 180-79A-253, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-253, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-253.	180-79A-304 Minimum preparation for endorsements for teachers. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-304, filed 12/23/98, effective 1/23/99. Statutory Authority: RCW 28A.410.010.97-04-088, § 180-79A-304, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-304.
180-79A-255	Certification of out-of-state trained educational personnel—Interstate educational personnel contracts. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-255, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-255.	180-79A-306 Subject area endorsement recommendations by colleges and universities. [Statutory Authority: RCW 28A.410.010.97-04-088, § 180-79A-306, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-306.
180-79A-257	Out-of-state candidates. [Statutory Authority: RCW 28A.410.010.05-04-054, § 180-79A-257, filed 1/28/05, effective 2/28/05; 04-21-005, § 180-79A-257, filed 10/7/04, effective 11/7/04; 04-04-011, § 180-79A-257, filed 1/23/04, effective 2/23/04; 04-04-009, § 180-79A-257, filed 1/23/04, effective 2/23/04; 01-18-043, § 180-79A-257, filed 8/29/01, effective 9/29/01; 01-13-108, § 180-79A-257, filed 6/20/01, effective 7/21/01; 00-23-005, § 180-79A-257, filed 11/2/00, effective 12/3/00; 00-03-048, § 180-79A-257, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-257, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-257.	180-79A-308 Endorsement by examination. [Statutory Authority: RCW 28A.410.010.03-19-019, § 180-79A-308, filed 9/5/03, effective 10/6/03; 97-04-088, § 180-79A-308, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-308.
180-79A-260	Establishing equivalency for course work, degrees and programs completed in countries outside the United States. [Statutory Authority: RCW 28A.410.010.00-03-050, § 180-79A-260, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-260, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-260.	180-79A-310 Subject area endorsements through SPI. [Statutory Authority: RCW 28A.410.010.97-04-088, § 180-79A-310, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-310.
180-79A-270	Teacher, principal, and educational staff associate exchange permits. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-270, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-270.	180-79A-312 Award of college or university credit hours for experience. [Statutory Authority: RCW 28A.410.010.97-04-088, § 180-79A-312, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-312.
180-79A-299	Transition policies. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2), 99-23-023, § 180-79A-299, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-299, filed 12/23/98, effective 1/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-299.	180-79A-315 In-service in lieu of college and university credit hours. [Statutory Authority: RCW 28A.410.010.97-04-088, § 180-79A-315, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-315.
180-79A-300	Certificate endorsement. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010.00-18-064, § 180-79A-300, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010.99-06-006, § 180-79A-300, filed 2/18/99, effective 3/21/99; 98-01-027, § 180-79A-300, filed 12/8/97, effective 1/8/98; 97-04-088, § 180-79A-300, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-300.	180-79A-317 Evaluation of in-service in lieu of college and university credit hours by PEAC. [Statutory Authority: RCW 28A.410.010.97-04-088, § 180-79A-317, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-317.
180-79A-302	Authorized endorsement for teachers. [Statutory Authority: RCW 28A.410.010.98-01-027, § 180-79A-302, filed 12/8/97, effective 1/8/98; 97-04-088, § 180-	180-79A-320 Agriculture education—Subject area endorsements. [Statutory Authority: RCW 28A.410.010.97-04-088, § 180-79A-320, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-320.
		180-79A-322 Anthropology—Subject area endorsement. [Statutory Authority: RCW 28A.410.010.97-04-088, § 180-79A-322, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-322.
		180-79A-324 Art—Subject area endorsement. [Statutory Authority: RCW 28A.410.010.97-04-088, § 180-79A-324, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-324.
		180-79A-326 Bilingual education—Subject area endorsement. [Statutory Authority: RCW 28A.410.010.97-04-088, § 180-79A-326, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-326.
		180-79A-328 Biology—Subject area endorsement. [Statutory Authority: RCW 28A.410.010.97-04-088, § 180-79A-328, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-328.
		180-79A-330 Business education—Subject area endorsement. [Statutory Authority: RCW 28A.410.010.97-04-088, § 180-79A-330, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-330.
		180-79A-332 Chemistry—Subject area endorsement. [Statutory Authority: RCW 28A.410.010.97-04-088, § 180-79A-332, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-332.
		180-79A-333 Comparative religion—Subject area endorsement. [Statutory Authority: RCW 28A.410.010.97-04-088, § 180-79A-333, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-333.

Title 180

Title 180 WAC: Education, State Board of

180-79A-334	Instructional technology (formerly computer science)—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-334, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-334.		
180-79A-336	Designated foreign language—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-336, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-336.	180-79A-366	Marketing education—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-366, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-366.
180-79A-338	Drama—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-338, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-338.	180-79A-368	Journalism—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-368, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-368.
180-79A-340	Early childhood education, regular—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 98-05-023, § 180-79A-340, filed 2/6/98, effective 3/9/98; 97-04-088, § 180-79A-340, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-340.	180-79A-370	Learning resources—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-370, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-370.
180-79A-342	Early childhood education, special education—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-342, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-342.	180-79A-372	Mathematics—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-372, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-372.
180-79A-344	Earth science—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-344, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-344.	180-79A-374	Music—Broad subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-374, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-374.
180-79A-346	Economics—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-346, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-346.	180-79A-376	Choral music—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-376, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-376.
180-79A-348	Elementary education—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-348, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-348.	180-79A-378	Instrumental music—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-378, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-378.
180-79A-350	English—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-350, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-350.	180-79A-379	Philosophy—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-379, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-379.
180-79A-352	English as a second language—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-352, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-352.	180-79A-380	Physical education—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-380, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-380.
180-79A-354	English/language arts—Broad subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-354, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-354.	180-79A-382	Physics—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-382, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-382.
180-79A-356	Geography—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-356, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-356.	180-79A-384	Political science—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-384, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-384.
180-79A-358	Health—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-358, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-358.	180-79A-386	Psychology—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-386, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-386.
180-79A-360	History—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-360, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-360.	180-79A-388	Reading—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-388, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-388.
180-79A-362	Family and consumer sciences education (formerly home and family life education)—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-362, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-362.	180-79A-390	Science—Broad subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-390, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-390.
180-79A-364	Technology education (formerly industrial arts)—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-364, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed	180-79A-392	Sociology—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-392, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-392.
		180-79A-394	Social studies—Broad subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-394, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-394.
		180-79A-396	Special education—Subject area endorsement. [Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-

79A-396, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-396.

- 180-79A-398 Speech—Subject area endorsement. [Statutory Authority: RCW 28A.410.010, 97-04-088, § 180-79A-398, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-79A-398.

Chapter 180-81

PROFESSIONAL CERTIFICATION—MASTERS IN TEACHING DEGREE

- 180-81-003 Authority. [Statutory Authority: 1990 c 33, 90-17-009, § 180-81-003, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW 18A.04.172 [28A.04.172], 89-01-044 (Order 29-88), § 180-81-003, filed 12/14/88.] Repealed by 05-23-048, filed 11/9/05, effective 12/10/05.
- 180-81-005 Purpose. [Statutory Authority: RCW 18A.04.172 [28A.04.172], 89-01-044 (Order 29-88), § 180-81-005, filed 12/14/88.] Repealed by 05-23-048, filed 11/9/05, effective 12/10/05.
- 180-81-010 Compliance with this chapter necessary for certification. [Statutory Authority: RCW 18A.04.172 [28A.04.172], 89-01-044 (Order 29-88), § 180-81-010, filed 12/14/88.] Repealed by 05-23-048, filed 11/9/05, effective 12/10/05.
- 180-81-015 Application for degree approval. [Statutory Authority: RCW 18A.04.172 [28A.04.172], 89-01-044 (Order 29-88), § 180-81-015, filed 12/14/88.] Repealed by 05-23-048, filed 11/9/05, effective 12/10/05.
- 180-81-020 Admission standard—Program approval requirement. [Statutory Authority: RCW 18A.04.172 [28A.04.172], 89-01-044 (Order 29-88), § 180-81-020, filed 12/14/88.] Repealed by 05-23-048, filed 11/9/05, effective 12/10/05.
- 180-81-025 Certification standard—Program approval requirement. [Statutory Authority: RCW 18A.04.172 [28A.04.172], 89-01-044 (Order 29-88), § 180-81-025, filed 12/14/88.] Repealed by 05-23-048, filed 11/9/05, effective 12/10/05.
- 180-81-030 Academic advising—Program approval requirement. [Statutory Authority: RCW 18A.04.172 [28A.04.172], 89-01-044 (Order 29-88), § 180-81-030, filed 12/14/88.] Repealed by 05-23-048, filed 11/9/05, effective 12/10/05.
- 180-81-035 Program review—Program approval standard. [Statutory Authority: RCW 18A.04.172 [28A.04.172], 89-01-044 (Order 29-88), § 180-81-035, filed 12/14/88.] Repealed by 05-23-048, filed 11/9/05, effective 12/10/05.

Chapter 180-82

CERTIFICATE ENDORSEMENTS AND ASSIGNMENT OF CERTIFICATED PERSONNEL

- 180-82-002 Authority. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-04-008, § 180-82-002, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-002.
- 180-82-004 Purposes. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-04-008, § 180-82-004, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-004.
- 180-82-105 Assignment of classroom teachers within districts. [Statutory Authority: RCW 28A.410.010, 03-23-039, § 180-82-105, filed 11/12/03, effective 12/13/03; 02-18-038, § 180-82-105, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4), 02-04-018, § 180-82-105, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-04-008, § 180-82-105, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-105.
- 180-82-110 Exceptions to classroom teacher assignment policy. [Statutory Authority: RCW 28A.410.010, 03-04-023, § 180-82-110, filed 1/27/03, effective 2/27/03. Statutory Authority: RCW 28A.150.220(4), 28A.305.130(1), 28A.410.018, 00-18-063, § 180-82-110, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-04-008, § 180-82-110, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-110.

180-82-120

tive 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-110.

Assignment of principals and assistant principals within districts. [Statutory Authority: RCW 28A.305.130 and 28A.410.010, 02-18-037, § 180-82-120, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-04-008, § 180-82-120, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-120.

180-82-125

Assignment of educational staff associates. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-04-008, § 180-82-125, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-125.

180-82-130

Assignment of persons providing instruction of Braille to students. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010, 28A.150.220(4), 01-13-110, § 180-82-130, filed 6/20/01, effective 7/21/01; 99-04-008, § 180-82-130, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-130.

180-82-135

Assignment waivers. [Statutory Authority: RCW 28A.305.130, 01-04-020, § 180-82-135, filed 1/29/01, effective 3/1/01.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-135.

180-82-200

Purpose of endorsement requirements. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-04-008, § 180-82-200, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-200.

180-82-201

Grade designations for endorsements obtained after August 31, 2000. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-04-008, § 180-82-201, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-201.

180-82-202

Certificate endorsements. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4), 02-04-018, § 180-82-202, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010, 01-13-108, § 180-82-202, filed 6/20/01, effective 7/21/01; 00-18-061, § 180-82-202, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2), 99-23-023, § 180-82-202, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-04-008, § 180-82-202, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-202.

180-82-204

Endorsement requirements. [Statutory Authority: RCW 28A.410.010, 03-14-114, § 180-82-204, filed 6/30/03, effective 7/31/03; 01-13-108, § 180-82-204, filed 6/20/01, effective 7/21/01; 00-09-047, § 180-82-204, filed 4/14/00, effective 5/15/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-04-008, § 180-82-204, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-204.

180-82-210

Primary and supporting endorsements. [Statutory Authority: RCW 28A.410.010, 01-13-108, § 180-82-210, filed 6/20/01, effective 7/21/01. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2), 99-23-023, § 180-82-210, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-04-008, § 180-82-210, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-210.

180-82-215

Implementation policies. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2), 99-23-023, § 180-82-215, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-04-008, § 180-82-215, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-215.

180-82-300	Bilingual education—All levels, (supporting). [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-300, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-300.		filed 3/23/99, effective 4/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-319.
180-82-303	Designated arts: Dance—All levels, primary. [Statutory Authority: RCW 28A.410.010. 00-18-061, § 180-82-303, filed 9/1/00, effective 10/2/00.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-303	180-82-320	Designated science: Physics—Secondary, primary. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-320, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-320.
180-82-304	Designated arts: Dance—All levels (supporting). [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-304, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-304.	180-82-321	Designated science: Physics—Secondary, supporting. [Statutory Authority: RCW 28A.305.130 (1) and (2) and 28A.410.010. 99-07-102, § 180-82-321, filed 3/23/99, effective 4/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-321.
180-82-307	Designated arts: Drama—All levels, primary. [Statutory Authority: RCW 28A.410.010. 00-18-061, § 180-82-307, filed 9/1/00, effective 10/2/00.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-307.	180-82-322	Designated career and technical education—Secondary, primary. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-82-322, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-82-322, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-322, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-322.
180-82-308	Designated arts: Drama—All levels, supporting. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-308, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-308.	180-82-324	Designated world languages—All levels, primary. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-324, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-324.
180-82-310	Designated arts: Choral, instrumental, or general music—All levels, primary. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.-220(4). 99-04-008, § 180-82-310, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-310.	180-82-326	Designated world languages—All levels, supporting. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-326, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-326.
180-82-311	Designated arts: Choral, instrumental, or general music—All levels, supporting. [Statutory Authority: RCW 28A.410.010. 00-09-047, § 180-82-311, filed 4/14/00, effective 5/15/00.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-311.	180-82-328	Early childhood education—Primary. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-328, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-328.
180-82-312	Designated arts: Visual arts—All levels, primary. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-312, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-312.	180-82-330	Early childhood education—Supporting. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-330, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-330.
180-82-313	Designated arts: Visual arts—All levels, supporting. [Statutory Authority: RCW 28A.410.010. 00-09-047, § 180-82-313, filed 4/14/00, effective 5/15/00.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-313.	180-82-331	Early childhood special education—Primary. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-06-005, § 180-82-331, filed 2/18/99, effective 3/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-331.
180-82-314	Designated science: Biology—Secondary, primary. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-314, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-314.	180-82-332	Elementary education—Primary. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-332, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-332.
180-82-315	Designated science: Biology—Secondary, supporting. [Statutory Authority: RCW 28A.305.130 (1) and (2) and 28A.410.010. 99-07-102, § 180-82-315, filed 3/23/99, effective 4/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-315.	180-82-334	English—Secondary, primary. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-334, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-334.
180-82-316	Designated science: Chemistry—Secondary, primary. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-316, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-316.	180-82-335	English—Secondary, supporting. [Statutory Authority: RCW 28A.410.010. 00-09-047, § 180-82-335, filed 4/14/00, effective 5/15/00.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-335.
180-82-317	Designated science: Chemistry—Secondary, supporting. [Statutory Authority: RCW 28A.305.130 (1) and (2) and 28A.410.010. 99-07-102, § 180-82-317, filed 3/23/99, effective 4/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-317.	180-82-336	English/language arts—Secondary, primary. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-336, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-336.
180-82-318	Designated science: Earth science—Secondary, primary. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-318, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-318.	180-82-338	English as a second language—All levels, primary. [Statutory Authority: RCW 28A.410.010. 00-18-061, § 180-82-338, filed 9/1/00, effective 10/2/00.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-338.
180-82-319	Designated science: Earth science—Secondary, supporting. [Statutory Authority: RCW 28A.305.130 (1) and (2) and 28A.410.010. 99-07-102, § 180-82-319,		

180-82-339	English as a second language—All levels, supporting. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-339, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-339.		
180-82-340	Health/fitness—All levels, primary. [Statutory Authority: RCW 28A.410.010. 00-09-047, § 180-82-340, filed 4/14/00, effective 5/15/00.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-340.		
180-82-341	Health/fitness—All levels, supporting. [Statutory Authority: RCW 28A.410.010. 00-09-047, § 180-82-341, filed 4/14/00, effective 5/15/00.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-341.		
180-82-342	History—Secondary, primary. [Statutory Authority: RCW 28A.410.010. 00-18-061, § 180-82-342, filed 9/1/00, effective 10/2/00; 00-09-047, § 180-82-342, filed 4/14/00, effective 5/15/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-342, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-342.	180-82-356	Social studies—Secondary, primary. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-356, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-356.
180-82-343	History—Secondary, supporting. [Statutory Authority: RCW 28A.410.010. 00-09-047, § 180-82-343, filed 4/14/00, effective 5/15/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-343, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-343.	180-82-360	Special education—All levels, primary. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-360, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-360.
180-82-344	Library media—All levels, primary. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-344, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-344.	Chapter 180-82A PERFORMANCE-BASED TEACHER CERTIFICATE ENDORSEMENTS	
180-82-346	Library media—All levels, supporting. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-016, § 180-82-346, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-346, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-346.	180-82A-002	Purposes and authority. [Statutory Authority: Chapter 28A.410 RCW and RCW 28A.305.130 (1) through (4). 02-04-013, § 180-82A-002, filed 1/24/02, effective 2/24/02.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82A-002.
180-82-348	Mathematics—Secondary, primary. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-348, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-348.	180-82A-200	Purposes of endorsement competencies referenced in this chapter. [Statutory Authority: Chapter 28A.410 RCW and RCW 28A.305.130 (1) through (4). 02-04-013, § 180-82A-200, filed 1/24/02, effective 2/24/02.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82A-200.
180-82-349	Mathematics—Secondary, supporting. [Statutory Authority: RCW 28A.305.130 (1) and (2) and 28A.410.010. 99-07-102, § 180-82-349, filed 3/23/99, effective 4/23/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-349.	180-82A-202	Certificate endorsements. [Statutory Authority: Chapter 28A.410 RCW and RCW 28A.305.130 (1) through (4). 02-04-013, § 180-82A-202, filed 1/24/02, effective 2/24/02.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82A-202.
180-82-350	Middle level, primary. [Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-82-350, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-350, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-350.	180-82A-204	Endorsement requirements. [Statutory Authority: RCW 28A.410.010 and 28A.305.130. 04-23-007, § 180-82A-204, filed 11/4/04, effective 12/5/04. Statutory Authority: RCW 28A.410.010. 03-14-114, § 180-82A-204, filed 6/30/03, effective 7/31/03. Statutory Authority: Chapter 28A.410 RCW and RCW 28A.305.130 (1) through (4). 02-04-013, § 180-82A-204, filed 1/24/02, effective 2/24/02.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82A-204.
180-82-352	Reading—All levels, primary. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-352, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-352.	180-82A-206	Endorsement program approval. [Statutory Authority: RCW 28A.410.010. 03-14-122, § 180-82A-206, filed 6/30/03, effective 7/31/03. Statutory Authority: Chapter 28A.410 RCW and RCW 28A.305.130 (1) through (4). 02-04-013, § 180-82A-206, filed 1/24/02, effective 2/24/02.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82A-206.
180-82-354	Reading—All levels, supporting. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-354, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82-354.	180-82A-215	Implementation policies. [Statutory Authority: RCW 28A.410.010. 03-14-122, § 180-82A-215, filed 6/30/03, effective 7/31/03. Statutory Authority: Chapter 28A.410 RCW and RCW 28A.305.130 (1) through (4). 02-04-013, § 180-82A-215, filed 1/24/02, effective 2/24/02.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-82A-215.
180-82-355	Science—Secondary, primary. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-355, filed 1/21/99, effective 2/21/99.] Decodified by 06-02-051,	Chapter 180-83 INTERNSHIPS	
		180-83-010	Authority. [Statutory Authority: RCW 28A.415.020 and 28A.415.025. 96-04-073, § 180-83-010, filed 2/7/96, effective 3/9/96.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-83-010.
		180-83-020	Definitions. [Statutory Authority: RCW 28A.415.020 and 28A.415.025. 96-04-073, § 180-83-020, filed 2/7/96, effective 3/9/96.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-83-020.
		180-83-030	Internship requirements. [Statutory Authority: RCW 28A.415.020 and 28A.415.025. 96-04-073, § 180-83-030, filed 2/7/96, effective 3/9/96.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-83-030.
		180-83-040	Internship report. [Statutory Authority: RCW 28A.415.020 and 28A.415.025. 96-04-073, § 180-83-040, filed 2/7/96, effective 3/9/96.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-83-040.
		180-83-050	Employment and compensation. [Statutory Authority: RCW 28A.415.020 and 28A.415.025. 96-04-073, § 180-83-050, filed 2/7/96, effective 3/9/96.] Decodified

	by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-83-050.		180-85-034, filed 9/20/05, effective 10/21/05.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-034.
180-83-060	Clock hours. [Statutory Authority: RCW 28A.415.020 and 28A.415.025. 96-04-073, § 180-83-060, filed 2/7/96, effective 3/9/96.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-83-060.	180-85-035	Lapse date—Definition. [Statutory Authority: RCW 28A.410.010. 02-04-017, § 180-85-035, filed 1/24/02, effective 2/24/02; 01-13-111, § 180-85-035, filed 6/20/01, effective 7/21/01. Statutory Authority: RCW 28A.70.005. 86-13-018 (Order 8-86), § 180-85-035, filed 6/10/86.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-035.
180-83-070	Effective date. [Statutory Authority: RCW 28A.415.020 and 28A.415.025. 96-04-073, § 180-83-070, filed 2/7/96, effective 3/9/96.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-83-070.	180-85-040	Lapsed—Definition. [Statutory Authority: RCW 28A.70.005. 86-13-018 (Order 8-86), § 180-85-040, filed 6/10/86.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-040.
Chapter 180-85		180-85-045	Approved in-service education agency—Definition. [Statutory Authority: RCW 28A.410.010. 92-04-044, § 180-85-045, filed 1/31/92, effective 3/2/92. Statutory Authority: 1990 c 33. 91-04-016, § 180-85-045, filed 1/28/91, effective 2/28/91. Statutory Authority: RCW 28A.70.005. 90-12-076, § 180-85-045, filed 6/1/90, effective 7/2/90; 88-01-086 (Order 16-87), § 180-85-045, filed 12/21/87; 87-09-013 (Order 5-87), § 180-85-045, filed 4/3/87; 86-13-018 (Order 8-86), § 180-85-045, filed 6/10/86.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-045.
PROFESSIONAL CERTIFICATION—CONTINUING EDUCATION REQUIREMENT			Continuing education requirement. [Statutory Authority: RCW 28A.410.010. 05-19-104, § 180-85-075, filed 9/20/05, effective 10/21/05; 02-14-112, § 180-85-075, filed 7/2/02, effective 8/2/02; 02-04-017, § 180-85-075, filed 1/24/02, effective 2/24/02; 01-09-004, § 180-85-075, filed 4/5/01, effective 5/6/01; 99-14-010, § 180-85-075, filed 6/24/99, effective 7/25/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-85-075, filed 12/23/98, effective 1/23/99. Statutory Authority: RCW 28A.70.005. 89-01-043 (Order 28-88), § 180-85-075, filed 12/14/88; 86-13-018 (Order 8-86), § 180-85-075, filed 6/10/86.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-075.
180-85-005	Authority. [Statutory Authority: 1990 c 33. 91-04-016, § 180-85-005, filed 1/28/91, effective 2/28/91. Statutory Authority: RCW 28A.70.005. 86-13-018 (Order 8-86), § 180-85-005, filed 6/10/86.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-005.	180-85-077	Continuing education credit—ESAs. [Statutory Authority: RCW 28A.410.010. 04-15-120, § 180-85-077, filed 7/20/04, effective 8/20/04; 92-04-044, § 180-85-077, filed 1/31/92, effective 3/2/92.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-077.
180-85-010	Purpose. [Statutory Authority: RCW 28A.70.005. 86-13-018 (Order 8-86), § 180-85-010, filed 6/10/86.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-010.	180-85-085	In-service education records. [Statutory Authority: RCW 28A.70.005. 90-12-076, § 180-85-085, filed 6/1/90, effective 7/2/90; 89-01-043 (Order 28-88), § 180-85-085, filed 12/14/88; 88-01-086 (Order 16-87), § 180-85-085, filed 12/21/87.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-085.
180-85-015	Public policy goal. [Statutory Authority: RCW 28A.70.005. 86-13-018 (Order 8-86), § 180-85-015, filed 6/10/86.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-015.	180-85-100	Calculation of lapse dates. [Statutory Authority: RCW 28A.410.010. 98-05-024, § 180-85-100, filed 2/6/98, effective 3/9/98. Statutory Authority: RCW 28A.70.005. 90-12-076, § 180-85-100, filed 6/1/90, effective 7/2/90; 86-13-018 (Order 8-86), § 180-85-100, filed 6/10/86.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-100.
180-85-020	Effective date and applicable certificates. [Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-85-020, filed 12/23/98, effective 1/23/99. Statutory Authority: RCW 28A.70.005. 89-01-043 (Order 28-88), § 180-85-020, filed 12/14/88; 87-12-041 (Order 10-87), § 180-85-020, filed 6/1/87; 86-13-018 (Order 8-86), § 180-85-020, filed 6/10/86.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-020.	180-85-105	SPI initial notice to certificate holders of continuing education requirement. [Statutory Authority: RCW 28A.410.010. 04-08-054, § 180-85-105, filed 4/2/04, effective 5/3/04. Statutory Authority: RCW 28A.70.005. 90-12-076, § 180-85-105, filed 6/1/90, effective 7/2/90; 86-13-018 (Order 8-86), § 180-85-105, filed 6/10/86.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-105.
180-85-025	Continuing education—Definition. [Statutory Authority: RCW 28A.410.010. 05-19-104, § 180-85-025, filed 9/20/05, effective 10/21/05; 04-20-094, § 180-85-025, filed 10/5/04, effective 11/5/04; 02-18-050, § 180-85-025, filed 8/28/02, effective 9/28/02; 97-04-086, § 180-85-025, filed 2/5/97, effective 3/8/97. Statutory Authority: RCW 28A.410.010 and 28A.415.025. 96-08-013, § 180-85-025, filed 3/25/96, effective 4/25/96. Statutory Authority: RCW 28A.410.010. 94-01-104, § 180-85-025, filed 12/16/93, effective 1/16/94. Statutory Authority: RCW 28A.70.005. 89-01-043 (Order 28-88), § 180-85-025, filed 12/14/88; 86-13-018 (Order 8-86), § 180-85-025, filed 6/10/86.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-025.	180-85-106	Filing requirement with SPI. [Statutory Authority: RCW 28A.70.005. 90-12-076, § 180-85-106, filed 6/1/90, effective 7/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-106.
180-85-030	Continuing education credit hour—Definition. [Statutory Authority: RCW 28A.410.010. 00-13-065, § 180-85-030, filed 6/16/00, effective 7/17/00; 97-04-086, § 180-85-030, filed 2/5/97, effective 3/8/97. Statutory Authority: RCW 28A.70.005. 89-01-043 (Order 28-88), § 180-85-030, filed 12/14/88; 88-01-086 (Order 16-87), § 180-85-030, filed 12/21/87; 86-13-018 (Order 8-86), § 180-85-030, filed 6/10/86.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-030.	180-85-107	Documentation requirement. [Statutory Authority: RCW 28A.70.005. 90-12-076, § 180-85-107, filed 6/1/90, effective 7/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-107.
180-85-032	Continuing education credit hour—Definition—Internships. [Statutory Authority: RCW 28A.410.010 and 28A.415.025. 96-08-013, § 180-85-032, filed 3/25/96, effective 4/25/96.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-032.	180-85-108	Documentation retention period. [Statutory Authority: RCW 28A.70.005. 90-12-076, § 180-85-108, filed 6/1/90, effective 7/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-108.
180-85-033	Continuing education credit hour—Definition—Professional growth team consultation and collaboration—School accreditation site visit team participation—National Board for Professional Teaching Standards assessment—Supervisors. [Statutory Authority: RCW 28A.410.010. 05-19-104, § 180-85-033, filed 9/20/05, effective 10/21/05; 04-20-094, § 180-85-033, filed 10/5/04, effective 11/5/04; 02-18-050, § 180-85-033, filed 8/28/02, effective 9/28/02.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-033.		
180-85-034	Continuing education credit hour—Definition—Professional development system—Professional growth plan. [Statutory Authority: RCW 28A.410.010. 05-19-103, §		

180-85-109	SPI audits of documentation. [Statutory Authority: RCW 28A.410.010. 98-01-034, § 180-85-109, filed 12/8/97, effective 1/8/98. Statutory Authority: RCW 28A.70.005. 90-12-076, § 180-85-109, filed 6/1/90, effective 7/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-109.		12/29/05, effective 1/1/06. Recodified as WAC 181-86-011.
180-85-130	Reinstatement of lapsed certificate. [Statutory Authority: RCW 28A.70.005. 86-13-018 (Order 8-86), § 180-85-130, filed 6/10/86.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-130.	180-86-013	Good moral character and personal fitness—Definition. [Statutory Authority: RCW 28A.150.290(1). 02-19-050, § 180-86-013, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.410.010. 97-04-082, recodified as § 180-86-013, filed 2/5/97, effective 3/8/97. Statutory Authority: RCW 18A.410.010 [28A.410.010] and 28A.70.005. 92-01-127, § 180-75-081, filed 12/19/91, effective 1/19/92. Statutory Authority: RCW 28A.70.005. 90-02-073, § 180-75-081, filed 1/2/90, effective 2/2/90. Statutory Authority: RCW 34.05.220(A) [34.05.220 (1)(a)] and 34.05.250. 89-22-010, § 180-75-081, filed 10/20/89, effective 11/20/89. Statutory Authority: RCW 28A.70.005. 87-09-010 (Order 2-87), § 180-75-081, filed 4/3/87.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-013.
180-85-200	In-service education approval standards. [Statutory Authority: RCW 28A.410.010. 97-04-086, § 180-85-200, filed 2/5/97, effective 3/8/97. Statutory Authority: RCW 28A.70.005. 89-01-043 (Order 28-88), § 180-85-200, filed 12/14/88; 88-01-086 (Order 16-87), § 180-85-200, filed 12/21/87; 86-13-018 (Order 8-86), § 180-85-200, filed 6/10/86.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-200.	180-86-014	Good moral character and personal fitness—Continuing requirement. [Statutory Authority: RCW 28A.410.010. 97-04-082, recodified as § 180-86-014, filed 2/5/97, effective 3/8/97. Statutory Authority: RCW 34.05.220(A) [34.05.220 (1)(a)] and 34.05.250. 89-22-010, § 180-75-083, filed 10/20/89, effective 11/20/89. Statutory Authority: RCW 28A.70.005. 87-09-010 (Order 2-87), § 180-75-083, filed 4/3/87.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-014.
180-85-205	Required recordkeeping by approved in-service education agencies. [Statutory Authority: RCW 28A.70.005. 90-12-076, § 180-85-205, filed 6/1/90, effective 7/2/90; 88-01-086 (Order 16-87), § 180-85-205, filed 12/21/87; 86-13-018 (Order 8-86), § 180-85-205, filed 6/10/86.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-205.	180-86-015	Denial of application for certification or endorsement order—Definition. [Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-015, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-015.
180-85-210	Assurances of compliance with program and record-keeping standards. [Statutory Authority: RCW 28A.410.010. 97-04-086, § 180-85-210, filed 2/5/97, effective 3/8/97. Statutory Authority: RCW 28A.70.005. 86-13-018 (Order 8-86), § 180-85-210, filed 6/10/86.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-210.	180-86-030	Reprimand order—Definition. [Statutory Authority: RCW 28A.150.290(1). 02-19-050, § 180-86-030, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-030, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-030.
180-85-211	Annual approval procedures. [Statutory Authority: RCW 28A.410.010. 97-04-086, § 180-85-211, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-211.	180-86-035	Suspension order—Definition. [Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-035, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-035.
180-85-215	Selective audit of records of in-service education agencies. [Statutory Authority: RCW 28A.410.010. 97-04-086, § 180-85-215, filed 2/5/97, effective 3/8/97. Statutory Authority: RCW 28A.70.005. 86-13-018 (Order 8-86), § 180-85-215, filed 6/10/86.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-215.	180-86-040	Revocation order—Definition. [Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-040, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-040.
180-85-220	Noncompliance—Substantial compliance rule. [Statutory Authority: RCW 28A.70.005. 87-09-013 (Order 5-87), § 180-85-220, filed 4/3/87; 86-13-018 (Order 8-86), § 180-85-220, filed 6/10/86.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-220.	180-86-050	Grounds for issuance of denial of application for certification or endorsement order. [Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-050, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-050.
180-85-225	Appeal to state board of education. [Statutory Authority: RCW 28A.70.005. 89-01-043 (Order 28-88), § 180-85-225, filed 12/14/88; 87-09-013 (Order 5-87), § 180-85-225, filed 4/3/87; 86-13-018 (Order 8-86), § 180-85-225, filed 6/10/86.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-85-225.	180-86-065	Grounds for issuance of a reprimand order. [Statutory Authority: RCW 28A.150.290(1). 02-19-050, § 180-86-065, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-065, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-065.
Chapter 180-86 PROFESSIONAL CERTIFICATION—POLICIES AND PROCEDURES FOR ADMINISTRATION OF CERTIFICATION PROCEEDINGS		180-86-070	Grounds for issuance of suspension order. [Statutory Authority: RCW 28A.150.290(1). 02-19-050, § 180-86-070, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-070, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-070.
180-86-003	Authority. [Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-003, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-003.	180-86-075	Grounds for issuance of a revocation order. [Statutory Authority: RCW 28A.150.290(1). 02-19-050, § 180-86-075, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-075, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-075.
180-86-005	Purpose. [Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-005, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-005.	180-86-080	Factors to be considered prior to issuing orders. [Statutory Authority: RCW 28A.410.010. 97-05-008, § 180-86-080, filed 2/7/97, effective 3/10/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-080.
180-86-010	Public policy—Certification proceeding separate from other proceedings. [Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-010, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-010.		
180-86-011	Valid certificate required. [Statutory Authority: RCW 28A.150.290(1). 02-19-050, § 180-86-011, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.410.010. 97-04-082, § 180-86-011, filed 2/5/97, effective 3/8/97.] Decodified by 06-02-051, filed		

Title 180**Title 180 WAC: Education, State Board of**

180-86-085	Admissions and professional conduct advisory committee—Creation and composition. [Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-085, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-085.		
180-86-090	Admissions and professional conduct advisory committee—Operational procedures. [Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-090, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-090.		
180-86-095	Admissions and professional conduct advisory committee—Duties. [Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-095, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-095.	180-86-155	Appeal procedure to SBE. [Statutory Authority: RCW 28A.410.010 and 28A.410.100. 92-24-069, § 180-86-155, filed 12/1/92, effective 1/1/93. Statutory Authority: RCW 28A.410.010. 92-15-037, § 180-86-155, filed 7/9/92, effective 8/9/92. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-155, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-155.
180-86-100	Reprimand or certificate suspension or revocation—Initiation of proceedings. [Statutory Authority: RCW 28A.150.290(1). 02-19-050, § 180-86-100, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.410.010. 91-08-056, § 180-86-100, filed 4/2/91, effective 5/3/91. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-100, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-100.	180-86-160	Agreement not to continue or accept educational employment. [Statutory Authority: RCW 28A.150.290(1). 02-19-050, § 180-86-160, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-160, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-160.
180-86-105	Duty of educational service district superintendent to investigate complaints. [Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-105, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-105.	180-86-165	Waiver of requirement for timely appeal. [Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-165, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-165.
180-86-110	Duty of ESD superintendent, district superintendent and private school administrator to file complaints. [Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-110, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-110.	180-86-170	Burden and standard of proof. [Statutory Authority: RCW 28A.150.290(1). 02-19-050, § 180-86-170, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-170, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-170.
180-86-116	Investigative priorities—Levels of acts or omissions of misconduct. [Statutory Authority: RCW 28A.150.290(1). 02-19-050, § 180-86-116, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.410.010. 97-05-008, § 180-86-116, filed 2/7/97, effective 3/10/97.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-116.	180-86-175	Emergency suspension of certificate. [Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-175, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-175.
180-86-120	Issuance of denial order by superintendent of public instruction. [Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-120, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-120.	180-86-180	Voluntary surrender of certificates. [Statutory Authority: RCW 28A.150.290(1). 02-19-050, § 180-86-180, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-180, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-180.
180-86-130	Issuance of order for reprimand, suspension, or revocation by superintendent of public instruction. [Statutory Authority: RCW 28A.150.290(1). 02-19-050, § 180-86-130, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-130, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-130.	180-86-185	Notification of denial, surrender, suspension, or revocation of certificates. [Statutory Authority: RCW 28A.150.290(1). 02-19-050, § 180-86-185, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-185, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-185.
180-86-135	Issuance of final order for lapsing, reprimand, suspension, or revocation by superintendent of public instruction. [Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-135, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-135.	180-86-200	Annual report. [Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-200, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-200.
180-86-140	Appeal—General. [Statutory Authority: RCW 28A.150.290(1). 02-19-050, § 180-86-140, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-140, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-140.	Chapter 180-87 PROFESSIONAL CERTIFICATION—ACTS OF UNPROFESSIONAL CONDUCT	
180-86-145	Appeal procedure—Informal SPI review. [Statutory Authority: RCW 28A.150.290(1). 02-19-050, § 180-86-145, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-145, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-145.		
180-86-150	Appeal procedure—Formal SPI review process. [Statutory Authority: RCW 28A.410.010. 92-15-037, § 180-86-150, filed 7/9/92, effective 8/9/92. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-150, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-86-150.	180-87-003	Authority. [Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-003, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-87-003.
		180-87-005	Purpose. [Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-005, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-87-005.
		180-87-010	Public policy goals of chapter. [Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-010, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-87-010.
		180-87-015	Accountability for acts of unprofessional conduct. [Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-015, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-87-015.
		180-87-020	Applicability of chapter to private conduct. [Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-020, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-87-020.

180-87-025	Exclusivity of chapter. [Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-025, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-87-025.
180-87-030	Prospective application of chapter and amendments. [Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-030, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-87-030.
180-87-035	Education practitioner—Definition. [Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-035, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-87-035.
180-87-040	Student—Definition. [Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-040, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-87-040.
180-87-045	Colleague—Definition. [Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-045, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-87-045.
180-87-050	Misrepresentation or falsification in the course of professional practice. [Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-050, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-87-050.
180-87-055	Alcohol or controlled substance abuse. [Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-055, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-87-055.
180-87-060	Disregard or abandonment of generally recognized professional standards. [Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-060, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-87-060.
180-87-065	Abandonment of contract for professional services. [Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-065, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-87-065.
180-87-070	Unauthorized professional practice. [Statutory Authority: RCW 28A.410.010. 97-21-075, § 180-87-070, filed 10/17/97, effective 11/17/97. Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-070, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-87-070.
180-87-080	Sexual misconduct with students. [Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-080, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-87-080.
180-87-085	Furnishing alcohol or controlled substance to students. [Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-085, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-87-085.
180-87-090	Improper remunerative conduct. [Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-090, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-87-090.
180-87-093	Failure to assure the transfer of student record information or student records. [Statutory Authority: RCW 28A.410.010, 28A.225.330(3) and 1995 c 311. 96-08-012, § 180-87-093, filed 3/25/96, effective 4/25/96.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-87-093.
180-87-095	Failure to file a complaint. [Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-095, filed 1/2/90, effective 2/2/90.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-87-095.

Chapter 180-88**DEFINITIONS OF SEXUAL MISCONDUCT, VERBAL ABUSE AND PHYSICAL ABUSE—MANDATORY DISCLOSURE—PROHIBITED AGREEMENTS**

180-88-010	Purpose and authority. [Statutory Authority: RCW 28A.400.301. 04-23-011, § 180-88-010, filed 11/4/04, effective 12/5/04.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-88-010.
180-88-020	Employee—Definition. [Statutory Authority: RCW 28A.400.301. 04-23-011, § 180-88-020, filed 11/4/04, effective 12/5/04.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-88-020.
180-88-030	Student—Definition. [Statutory Authority: RCW 28A.400.301. 04-23-011, § 180-88-030, filed 11/4/04, effective 12/5/04.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-88-030.
180-88-040	Verbal abuse—Definition. [Statutory Authority: RCW 28A.400.301. 04-23-011, § 180-88-040, filed 11/4/04, effective 12/5/04.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-88-040.
180-88-050	Physical abuse—Definition. [Statutory Authority: RCW 28A.400.301. 04-23-011, § 180-88-050, filed 11/4/04, effective 12/5/04.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-88-050.
180-88-060	Sexual misconduct—Definition. [Statutory Authority: RCW 28A.400.301. 04-23-011, § 180-88-060, filed 11/4/04, effective 12/5/04.] Decodified by 06-02-051, filed 12/29/05, effective 1/1/06. Recodified as WAC 181-88-060.

Chapter 180-16 WAC**STATE SUPPORT OF PUBLIC SCHOOLS****WAC**

180-16-241	Remote and necessary small school plants—Purpose and authority.
180-16-242	Remote and necessary small school plants—Criteria.
180-16-243	Remote and necessary small school plants—Review committee.

WAC 180-16-241 Remote and necessary small school plants—Purpose and authority. (1) The purpose of WAC 180-24-400 through 180-24-420 is to establish policies and procedures to govern the classification of small school plants as remote and necessary.

(2) The authority for WAC 180-24-400 through 180-24-420 is the state Operating Appropriations Act which allocates funds to school districts for small school plants which have been judged by the state board of education to be remote and necessary.

[05-13-061, recodified as § 180-16-241, filed 6/10/05, effective 6/10/05. Statutory Authority: 1994 sp.s. c 6 § 502 (i)(e). 02-14-113, § 180-24-400, filed 7/2/02, effective 8/2/02; 95-20-055, § 180-24-400, filed 10/2/95, effective 11/2/95.]

WAC 180-16-242 Remote and necessary small school plants—Criteria. (1) Decisions of the state board of education on granting remote and necessary status to small school plants within school districts shall be based on a finding that granting remote and necessary status is necessary to assure reasonable provision of a basic education program to students, including related services, equipment, materials and supplies.

(2) In making the finding under subsection (1) of this section, the state board of education shall consider, including but not limited to, the factors under (a) through (g) of this

subsection. No single factor or combination of factors necessarily warrants granting or denying remote and necessary status. However, it shall be the policy of the state board of education to favor those requests which, in the board's judgment, meet the provisions of this section. "Favor" does not mean that the listed factors are necessarily exclusive. Additional factors and considerations may be included in a particular request. If there is a factual situation that falls outside the scope of all or a portion of the listed factors, the state board may consider the facts and reasons the additional factors or considerations support the request.

(a) The student population to be served at the small school site, must meet the small school funding formula for remote and necessary school plants as provided in the Operating Appropriations Act. The grade span served at the small school site shall include the same levels for eligible students established by the district for other elementary, middle, or high schools of the district, and meet the educational needs of the population served by that small school plant.

(b) Existence of an intact, permanent community which is defined as a geographically site-specific, nontransient group of people. This factor must be met.

(c) Transportation: Travel time to another school in the district, or school in another district, is not less than sixty minutes one way, or international boundary crossing processing time is unpredictable or lengthy or both.

(d) Transportation: Student safety from a small school site in the school district to another school in the district, or school in another district, may be at risk due to the condition of roads or waterways, seasonal weather conditions, or topography.

(e) Operational efficiency: Nonavailability of age appropriate grade level or cooperative programs in other school facilities in the district, or in the next nearest district or districts, or other educational organizations approved or recognized by the state board of education or the superintendent of public instruction.

(3) At its discretion, the state board of education may use as guidance the applicable provisions of WAC 180-24-013, 180-24-016, and 180-24-017.

[05-13-061, recodified as § 180-16-242, filed 6/10/05, effective 6/10/05. Statutory Authority: 1994 c 6 § 502 (i)(e). 02-14-113, § 180-24-410, filed 7/2/02, effective 8/2/02. Statutory Authority: 1994 1st sp.s. c 6 § 502 (1)(e). 97-21-069, § 180-24-410, filed 10/15/97, effective 11/15/97. Statutory Authority: 1994 sp.s. c 6 § 502(i)(e). 95-20-055, § 180-24-410, filed 10/2/95, effective 11/2/95.]

WAC 180-16-243 Remote and necessary small school plants—Review committee. (1) There is hereby established by the state board of education a remote and necessary review committee comprised of at least the following five members:

(a) One member of the state board of education selected by the president of the board;

(b) Two staff members from the office of the superintendent of public instruction, one who is knowledgeable about finance issues and one who is knowledgeable about curriculum issues, both selected by the state superintendent;

(c) One school director selected by the Washington State School Directors' Association;

(d) One school district administrator selected by the Washington Association of School Administrators;

(2) Vacancies on the review committee shall be filled by the person or organization responsible for appointments.

(3) At the state board of education's discretion, other members may be added to the review committee.

(4) It is the responsibility of the review committee to receive and review all applications from school districts requesting the state board of education to grant remote and necessary status to a small school plant located in the district. Following the review of applications, the review committee shall recommend to the state board whether such designation should be granted. Recommendations of the review committee shall be advisory only. The final determination rests solely with the state board of education.

(5) Every small school plant with remote and necessary status beginning 1996, shall be reviewed every four years by the review committee and the state board. The review committee shall submit its findings and recommendations to the state board. The review committee may conduct the review on-site, with the number of members participating determined by the committee, or may conduct the review by other means as determined by the committee. The state board shall provide to the fiscal committees of the legislature in January of odd-numbered years a list of remote and necessary small school plants.

(6) A small school plant shall lose its remote and necessary status if the number of students exceeds the enrollment requirements set forth in the state Operating Appropriations Act for three consecutive years. The loss of remote and necessary status shall take effect the immediate ensuing school year. If a small school site should lose its remote and necessary status, the local serving school district may continue to maintain and operate the school site. When the enrollment of such small school plant again meets the requirements of the state Operating Appropriations Act, the school district may apply to the state board of education for redesignation as a remote and necessary plant.

(7) A small school plant shall lose its remote and necessary status if a local school district closes the small school plant. If the small school plant is reopened by the district, or a new small school plant is opened, the school district may apply to the state board of education for remote and necessary designation for the small school plant. If such designation is granted, the remote and necessary status shall take effect as determined by the state board of education.

[05-13-061, recodified as § 180-16-243, filed 6/10/05, effective 6/10/05. Statutory Authority: 1994 sp.s. c 6 § 502 (i)(e). 02-14-113, § 180-24-415, filed 7/2/02, effective 8/2/02. Statutory Authority: 1994 1st sp.s. c 6 § 502 (1)(e). 97-21-069, § 180-24-415, filed 10/15/97, effective 11/15/97. Statutory Authority: 1994 sp.s. c 6 § 502(i)(e). 95-20-055, § 180-24-415, filed 10/2/95, effective 11/2/95.]

Chapter 180-20 WAC

SCHOOL BUS DRIVER QUALIFICATIONS

WAC

180-20-009	Definitions.
180-20-021	Training and qualifications of school bus driver instructors—Administration.
180-20-101	Initial requirements for school bus drivers.
180-20-102	Continuing requirements for authorized school bus drivers.
180-20-103	Disqualifying conditions for authorized school bus drivers.

180-20-111	Temporary authorizations—Requirements and issuing procedures.
180-20-112	School bus driver authorization—Requirements and issuing procedures.
180-20-120	Discipline—Grounds for denial, suspension, or revocation of authorization—Emergency suspension—Appeals—Adjudicative proceedings.
180-20-135	School bus driver—Reporting.
180-20-140	School district—Reporting.
180-20-145	School district—Verification of drivers continuing compliance.

WAC 180-20-009 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "School bus driver" means a person, who is employed by a school district including contracted drivers under WAC 180-20-031 (1) and (2) and as part of that employment or contract, operates a school bus as defined in WAC 392-143-010, or other motor vehicles for the regularly scheduled transportation of students between home and school. School buses shall be operated by authorized school bus drivers when transporting students. An authorized school bus driver may also transport students on field trips and other school related activities.

(2) "A school bus driver's authorization" means an authorization issued by the superintendent of public instruction indicating that the person has met state board of education requirements to operate a school bus or other motor vehicle for the purpose of transporting students to and from school routinely on scheduled routes and/or school activities. A school bus driver must be authorized prior to transporting students and such authorization shall continue in effect as long as the person continues to meet the requirements of this chapter. A school bus driver authorization is not valid if suspended, revoked or lapsed.

(3) "School bus driver instructor's authorization" means an authorization issued by the superintendent of public instruction to a person successfully completing the superintendent of public instruction approved school bus driver instructor course. This authorization qualifies a person to train and verify the training of school bus drivers. This authorization shall lapse unless the holder successfully completes an annual school bus driver instructor's in-service course.

(4) "School bus driver training course" means a course established by the superintendent of public instruction and taught by an authorized school bus driver instructor. This course shall be successfully completed by all applicants for a school bus driver's authorization.

(5) "School bus driver annual in-service training course" means an annual course taught by an authorized school bus driver instructor. The content and minimum time requirements of such course shall be annually determined by the superintendent of public instruction and shall be required to be completed no earlier than August 1st and no later than November 1st by all authorized school bus drivers.

(6) "School bus driver instructor's course" means a training program authorized by the superintendent of public instruction to qualify a person as a school bus driver instructor.

(7) "School bus driver instructor's annual in-service course" means an annual required course, the content of which shall be determined by the superintendent of public

instruction. Successful completion of this course prevents the instructor's authorization from lapsing.

(8) "Serious behavioral problem" includes, but is not limited to, conduct which indicates unfitness to carry out the responsibilities related to the occupation or job performance of transporting children, such as: Dishonesty; immorality; or misuse of alcohol, a controlled substance, or a prescription drug; or furnishing alcohol or controlled substances to a minor or student. It does not include the orderly exercise during off-duty hours of any rights guaranteed under the law to citizens generally, except where such conduct indicates a safety risk for the transportation of students.

(9) "Medical examiner's certificate" means a written verification of passing a medical examination in accordance with the standards established in 49 CFR 391.41 through 391.49, of the Federal Motor Carrier Safety Regulations. School bus drivers must provide verification of passing a medical examination at a minimum of every twenty-four months. School bus drivers must continue to meet these medical requirements during the time between examinations. This requirement does not prevent a school district from requesting a more frequent examination.

[Statutory Authority: RCW 28A.160.210, 05-19-107, § 180-20-009, filed 9/20/05, effective 10/21/05; 04-08-055, § 180-20-009, filed 4/2/04, effective 5/3/04; 02-18-055, § 180-20-009, filed 8/28/02, effective 9/28/02.]

WAC 180-20-021 Training and qualifications of school bus driver instructors—Administration. It shall be the responsibility of the superintendent of public instruction to administer the program of training and qualifications of school bus driver instructors consistent with the provisions of this chapter. The superintendent of public instruction shall determine the qualifications necessary for applicants for the school bus driver instructor course and qualifications necessary for continuation of the school bus driver instructor authorization. Each school bus driver instructor shall verify annually that they continue to meet said qualifications. Intentional falsification of school bus driver training records shall result in permanent revocation of the school bus driver instructor authorization. In the case of denial of authorization or disqualification, the superintendent of public instruction shall provide an appeal process consistent with the provisions of this chapter.

[Statutory Authority: RCW 28A.160.210, 05-19-107, § 180-20-021, filed 9/20/05, effective 10/21/05; 04-08-055, § 180-20-021, filed 4/2/04, effective 5/3/04.]

WAC 180-20-101 Initial requirements for school bus drivers. Every authorized school bus driver must meet the following initial requirements:

- (1) Be at least twenty-one years of age.
- (2) Have at least one year of experience as a driver of a truck or commercial vehicle requiring a special endorsement or, in the alternative, at least three years of experience as a driver of a passenger vehicle.
- (3) Submit to a criminal record check according to chapter 28A.400 RCW which shows that no offenses have been committed which would be grounds for denial of an authorization.

(4) Satisfactorily complete a school bus driver training course and each year thereafter, satisfactorily complete a school bus driver in-service training course.

(5) Meet all applicable continuing school bus driver requirements in WAC 180-20-102.

[Statutory Authority: RCW 28A.160.210. 05-19-107, § 180-20-101, filed 9/20/05, effective 10/21/05; 05-08-014, § 180-20-101, filed 3/28/05, effective 4/28/05; 04-08-055, § 180-20-101, filed 4/2/04, effective 5/3/04; 02-18-055, § 180-20-101, filed 8/28/02, effective 9/28/02; 99-08-004, § 180-20-101, filed 3/25/99, effective 4/25/99; 96-20-042, § 180-20-101, filed 9/24/96, effective 10/25/96; 93-08-007, § 180-20-101, filed 3/24/93, effective 4/24/93.]

WAC 180-20-102 Continuing requirements for authorized school bus drivers. Every authorized school bus driver must continue to meet the following requirements:

(1) Have a valid driver's license or commercial driver's license, as required by law, issued by the state department of licensing.

(2) Satisfactorily complete the annual school bus driver in-service training course.

(3) Hold a current and valid first-aid card which certifies that the applicant has completed a course in first aid.

(4) Submit annually to the school district a disclosure of all crimes against children or other persons and all civil adjudications in a dependency action or in a domestic relation action and all disciplinary board final decisions of sexual abuse or exploitation or physical abuse as required by RCW 43.43.834(2) and disclosure of all convictions which may be grounds for denial, suspension, or revocation of authorization under WAC 180-20-103.

(5) Every authorized school bus driver must continue to meet the following physical requirements:

(a) Is physically able to maneuver and control a school bus under all driving conditions; and

(b) Is physically able to use all controls and equipment found on state minimum specified school buses; and

(c) Is physically able to perform daily routine school bus vehicle safety inspections; and

(d) Has sufficient strength and agility to move about in a school bus as required to provide assistance to students in evacuating the bus. The driver must be able to move from a seated position in a sixty-five passenger school bus, or the largest school bus the driver will be operating, to the emergency door, open the emergency door, and exit the bus through the emergency door, all within twenty-five seconds; and

(e) Provide verification of holding a current and valid medical examiner's certificate.

[Statutory Authority: RCW 28A.160.210. 05-19-107, § 180-20-102, filed 9/20/05, effective 10/21/05.]

WAC 180-20-103 Disqualifying conditions for authorized school bus drivers. A school bus driver's authorization will be denied or revoked as a result of the following conditions:

(1) Misrepresenting or concealing a material fact in obtaining a school bus driver's authorization or in reinstatement thereof in the previous five years.

(2) Having a driving license privilege suspended or revoked as a result of a moving violation as defined in WAC 308-104-160 within the preceding five years or have had

their commercial driver's license disqualified, suspended, or revoked within the preceding five years; a certified copy of the disqualification, suspension, or revocation order issued by the department of licensing being conclusive evidence of the disqualification, suspension, or revocation.

(3) Incurring three or more speeding tickets of ten miles per hour or more over the speed limit within the last five years.

(4) Having intentionally and knowingly transported public school students within the state of Washington within the previous five years with a lapsed, suspended, surrendered, or revoked school bus driver's authorization in a position for which authorization is required under this chapter.

(5) Having intentionally and knowingly transported public school students within the state of Washington within the previous five years with a suspended or revoked driver's license or a suspended, disqualified or revoked commercial driver's license.

(6) Having refused to take a drug or alcohol test as required by the provisions of 49 CFR 382 within the preceding five years. Provided, That this requirement shall not apply to any refusal to take a drug or alcohol test prior to January 31, 2005.

(7) Having a serious behavioral problem which endangers the educational welfare or personal safety of students, teachers, school bus drivers, or other coworkers.

(8) Having been convicted of any misdemeanor, gross misdemeanor, or felony (including instances in which a plea of guilty or *nolo contendere* is the basis for the conviction) or being under a deferred prosecution under chapter 10.05 RCW, including, but not limited to, the following:

(a) The physical neglect of a child under chapter 9A.42 RCW;

(b) The physical injury or death of a child under chapter 9A.32 or 9A.36 RCW, excepting motor vehicle violations under chapter 46.61 RCW;

(c) The sexual exploitation of a child under chapter 9.68A RCW;

(d) Sexual offenses where a child is the victim under chapter 9A.44 RCW;

(e) The promotion of prostitution of a child under chapter 9A.88 RCW;

(f) The sale or purchase of a child under RCW 9A.64.030;

(g) Any crime involving the use, sale, possession, or transportation of any controlled substance or prescription drug within the last ten years;

(h) Any crime involving driving when a driver's license is suspended or revoked, hit and run driving, driving while intoxicated, being in physical control of motor vehicle while intoxicated, reckless driving, negligent driving of a serious nature, vehicular assault or vehicular homicide, within the last five years;

(i) Provided, That the general classes of felony crimes referenced within this subsection shall include equivalent federal crimes and crimes committed in other states;

(j) Provided further, That for the purpose of this subsection "child" means a minor as defined by the applicable state or federal law;

(k) Provided further, That for the purpose of this subsection "conviction" shall include a guilty plea.

(9) Having been convicted of any crime within the last ten years, including motor vehicle violations, which would materially and substantially impair the individual's worthiness and ability to serve as an authorized school bus driver. In determining whether a particular conviction would materially and substantially impair the individual's worthiness and ability to serve as an authorized school bus driver, the following and any other relevant considerations shall be weighed:

(a) Age and maturity at the time the criminal act was committed;

(b) The degree of culpability required for conviction of the crime and any mitigating factors, including motive for commission of the crime;

(c) The classification of the criminal act and the seriousness of the actual and potential harm to persons or property;

(d) Criminal history and the likelihood that criminal conduct will be repeated;

(e) The permissibility of service as an authorized school bus driver within the terms of any parole or probation;

(f) Proximity or remoteness in time of the criminal conviction;

(g) Any evidence offered which would support good moral character and personal fitness;

(h) If this subsection is applied to a person currently authorized as a school bus driver in a suspension or revocation action, the effect on the school bus driving profession, including any chilling effect, shall be weighed; and

(i) In order to establish good moral character and personal fitness despite the criminal conviction, the applicant or authorized school bus driver has the duty to provide available evidence relative to the above considerations. The superintendent of public instruction has the right to gather and present additional evidence which may corroborate or negate that provided by the applicant or authorized school bus driver.

[Statutory Authority: RCW 28A.160.210. 06-01-039, § 180-20-103, filed 12/15/05, effective 1/15/06; 05-19-107, § 180-20-103, filed 9/20/05, effective 10/21/05.]

WAC 180-20-111 Temporary authorizations—Requirements and issuing procedures. (1) A temporary school bus driver authorization may be issued by the superintendent of public instruction upon application by an authorized representative of the employing school district when the following has been provided:

(a) Verification of successful completion of the school bus driver training course.

(b) Verification that it has on file a copy of a current and valid medical examiner's certificate.

(c) Verification that it has on file a current five-year complete driver's abstract, including departmental actions, of the applicant's employment and nonemployment driving record issued by the department of licensing verifying compliance with all provisions of this chapter. The issue date of this abstract must be within sixty calendar days prior to the date the application is being submitted for temporary authorization.

(d) Verification that it has on file a disclosure statement in compliance with preemployment inquiry regulations in WAC 162-12-140, signed by the applicant, specifying all convictions which relate to fitness to perform the job of a

school bus driver under WAC 180-20-103 and all crimes against children or other persons, that meets the requirements of RCW 43.43.834(2).

(e) Verification that it has requested a criminal record check as required under chapter 28A.400 RCW and the date of such request.

(f) Verification that it has on file an applicant's disclosure of all serious behavioral problems which explains the nature of all such problems and/or conditions, a listing of the names, addresses, and telephone numbers of all doctors, psychologists, psychiatrists, counselors, therapists, or other health care practitioners of any kind or hospitals, clinics, or other facilities who have examined and/or treated the applicant for such problems and/or conditions and dates of examinations, therapy, or treatment and the school district has determined that any reported serious behavioral problem does not endanger the education welfare or personal safety of students, teachers, bus drivers, or other colleagues.

(g) Verification that the applicant complies with all of the requirements for authorized school bus drivers set forth in this chapter except for a first-aid card and/or the results of a criminal record check.

(2) Upon approval of the temporary authorization, notice will be provided to the employing school district.

(3) The temporary authorization shall be valid for a period of sixty calendar days. The temporary authorization may be renewed by approval of the regional transportation coordinator when the results of the criminal background check have not been received.

[Statutory Authority: RCW 28A.160.210. 05-19-107, § 180-20-111, filed 9/20/05, effective 10/21/05; 04-08-055, § 180-20-111, filed 4/2/04, effective 5/3/04; 02-18-055, § 180-20-111, filed 8/28/02, effective 9/28/02; 99-08-004, § 180-20-111, filed 3/25/99, effective 4/25/99; 96-20-042, § 180-20-111, filed 9/24/96, effective 10/25/96; 93-08-007, § 180-20-111, filed 3/24/93, effective 4/24/93.]

WAC 180-20-112 School bus driver authorization—Requirements and issuing procedures. A school bus driver authorization may be issued by the superintendent of public instruction upon application by an authorized representative of the employing school district subject to compliance with the following provisions:

(1) The employing school district shall forward to the superintendent of public instruction the following verifications relating to the applicant:

(a) Verification of successful completion of the school bus driver training course taught by an authorized school bus driver instructor.

(b) Verification that it has on file a copy of a current and valid medical examiner's certificate.

(c) Verification that it has on file a current five-year complete driver's abstract, including departmental actions, of the applicant's employment and nonemployment driving record issued by the department of licensing verifying compliance with all provisions of this chapter. The issue date of this abstract must be within sixty calendar days prior to the date an application was submitted for temporary authorization. If no request for a temporary school bus authorization was submitted, the issue date must be within sixty calendar days prior to the date of application of the school bus driver authorization.

(d) Verification that the applicant has a current and valid first-aid card.

(e) Verification that it has on file a disclosure statement in compliance with preemployment inquiry regulations in WAC 162-12-140, signed by the applicant, specifying all convictions which relate to fitness to perform the job of a school bus driver under WAC 180-20-103 and all crimes against children or other persons, that meets the requirements of RCW 43.43.834(2).

(f) Verification that it has on file the results of a criminal record check as required under chapter 28A.400 RCW and that such results establish that the applicant has not committed any offense which constitutes grounds for denying, suspending, or revoking an authorization under this chapter and the date of such request.

(g) Verification that it has on file an applicant's disclosure of all serious behavioral problems which explains the nature of all such problems and/or conditions, a listing of the names, addresses, and telephone numbers of all doctors, psychologists, psychiatrists, counselors, therapists, or other health care practitioners of any kind or hospitals, clinics, or other facilities who have examined and/or treated the applicant for such problems and/or conditions and dates of examinations, therapy, or treatment and the school district has determined that any reported serious behavioral problem does not endanger the educational welfare or personal safety of students, teachers, school bus drivers, or other colleagues.

(h) Verification that the applicant complies with all of the requirements for authorized school bus drivers set forth in this chapter.

(2) Upon approval of an application, the superintendent of public instruction shall issue a notice of school bus driver authorization to the employing school district.

(3) Subsequent authorizations for an individual driver with new or additional employing school districts must be issued from the superintendent of public instruction to such districts prior to the operation of any motor vehicle for the transportation of children.

(4) The superintendent of public instruction will provide each school district with a list of their authorized school bus drivers and each authorized school bus driver's status.

[Statutory Authority: RCW 28A.160.210. 05-19-107, § 180-20-112, filed 9/20/05, effective 10/21/05.]

WAC 180-20-120 Discipline—Grounds for denial, suspension, or revocation of authorization—Emergency suspension—Appeals—Adjudicative proceedings. (1) A request for an authorization may be denied or an authorization issued under this chapter may be suspended or revoked for failure to meet any of the minimum requirements set forth in WAC 180-20-101 and 180-20-102 or for disqualifying conditions set forth in WAC 180-20-103, established by a preponderance of the evidence.

(2) Conduct, which by a preponderance of the evidence, amounts to a serious behavioral problem which endangers the educational welfare or personal safety of students, teachers, school bus drivers, or other colleagues is grounds for denial, suspension, or revocation whether or not the conduct constitutes a crime. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to denial, suspension, or revocation action. Upon such conviction,

however, the judgment and sentence is conclusive evidence at the ensuing hearing of the guilt of the authorized driver or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based.

(3)(a) Any person in treatment for alcohol or other drug misuse shall have his or her authorization suspended until treatment is satisfactorily completed and the completion is confirmed by a state-approved alcohol or drug treatment program at which time the authorization will be reinstated.

(b) In all cases of deferred prosecution under chapter 10.05 RCW, the authorization shall be suspended until the court confirms successful completion of the court approved treatment program at which time the authorization will be reinstated.

(4) Emergency suspension. If the superintendent of public instruction finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, emergency suspension of an authorization may be ordered pending proceedings for revocation or other action. In such cases, the superintendent of public instruction shall expedite all due process actions as quickly as possible.

(5)(a) Appeals and adjudicative proceedings. Any person desiring to appeal a denial, suspension, or revocation of a school bus driver authorization may do so to the superintendent of public instruction or designee in accordance with the adjudicative proceedings in RCW 34.05.413 through 34.05.494, and the administrative practices and procedures of the superintendent of public instruction in chapter 392-101 WAC.

(b) The superintendent of public instruction may assign the adjudicative proceeding to the office of administrative hearings and may delegate final decision-making authority to the administrative law judge conducting the hearing.

(c) The superintendent of public instruction may appoint a person to review initial orders and to prepare and enter final agency orders in accordance with RCW 34.05.464.

(d) Any person who disagrees with the school district's determination of failure to meet any school bus driver authorization qualifications may request that the school district forward the pertinent records to the superintendent of public instruction. After review or investigation, the superintendent of public instruction shall grant, deny, suspend, or revoke the authorization.

[Statutory Authority: RCW 28A.160.210. 05-19-107, § 180-20-120, filed 9/20/05, effective 10/21/05; 02-18-055, § 180-20-120, filed 8/28/02, effective 9/28/02; 99-08-004, § 180-20-120, filed 3/25/99, effective 4/25/99; 96-20-042, § 180-20-120, filed 9/24/96, effective 10/25/96; 93-08-007, § 180-20-120, filed 3/24/93, effective 4/24/93.]

WAC 180-20-135 School bus driver—Reporting. (1) Every person authorized under this chapter to operate a motor vehicle to transport children shall, within twenty calendar days, notify his or her employer in writing of the filing of any criminal charge involving conduct listed in WAC 180-20-103. The authorized driver shall also notify his or her employer of any disqualifying traffic convictions, or license suspension or revocation orders issued by the department of licensing. In cases where the employer is providing transportation services through a contract with the school district, the

contractor shall immediately notify the school district superintendent or designee.

(2) The notification in writing shall identify the name of the authorized driver, his or her authorization number, the court in which the action is commenced, and the case number assigned to the action.

(3) The failure of an authorized driver to comply with the provisions of this section is an act of unprofessional conduct and constitutes grounds for authorization suspension or revocation by the superintendent of public instruction.

[Statutory Authority: RCW 28A.160.210, 05-19-107, § 180-20-135, filed 9/20/05, effective 10/21/05; 02-18-055, § 180-20-135, filed 8/28/02, effective 9/28/02; 93-08-007, § 180-20-135, filed 3/24/93, effective 4/24/93.]

WAC 180-20-140 School district—Reporting. (1)

Every school district employing authorized school bus drivers to transport children or contracting with a private firm who provides such authorized drivers as a part of a contract shall, within twenty calendar days, notify the superintendent of public instruction in writing of knowledge it may have of the filing of any criminal charge involving the conduct listed in WAC 180-20-103 against any authorized school bus driver.

(2) The notification in writing shall be by certified or registered mail and shall identify the name of the authorized school bus driver, his or her authorization number, the court in which the action is commenced, and the case number assigned to the action.

[Statutory Authority: RCW 28A.160.210, 05-19-107, § 180-20-140, filed 9/20/05, effective 10/21/05; 93-08-007, § 180-20-140, filed 3/24/93, effective 4/24/93.]

WAC 180-20-145 School district—Verification of drivers continuing compliance. (1)

Every school district shall evaluate each authorized school bus driver for continuing compliance with the provisions of this chapter annually. The results of this evaluation of all drivers shall be forwarded to the superintendent of public instruction on SPI Form 1799, Verification Statement and Confirmation of Updated Records, no later than November 15th of each year.

(2) This report shall verify that each authorized school bus driver's medical examination certificate expiration date, first-aid expiration date, driver's license expiration date and most recent school bus driver in-service training date has been updated in compliance with OSPI procedures.

(3) This report shall verify that each authorized school bus driver has made an updated disclosure in writing and signed and sworn under penalty of perjury which updates the disclosure required in WAC 180-20-102(4).

(4) This report shall verify that each authorized school bus driver's five-year driving record is in compliance with WAC 180-20-103.

(5) This report shall verify that each authorized school bus driver remains in compliance with the physical requirements of WAC 180-20-102(5).

(6) This report shall be a written verification that the evaluation has been conducted in accordance with the requirements of this chapter and that all drivers are in compliance, or if all drivers are not in compliance, a list of drivers who are out of compliance and the reason for noncompliance shall be provided.

[Statutory Authority: RCW 28A.160.210, 05-19-107, § 180-20-145, filed 9/20/05, effective 10/21/05; 96-20-042, § 180-20-145, filed 9/24/96, effective 10/25/96; 93-08-007, § 180-20-145, filed 3/24/93, effective 4/24/93.]

Chapter 180-24 WAC

SCHOOL DISTRICT ORGANIZATION

WAC

180-24-00701	Regional committee decision making criteria.
180-24-195	Notification to state board of education of regional committee meetings.
180-24-207	Transfer of territory—Other district requirements.
180-24-209	Transfer of territory—Sufficiency of written record for appeal to state board of education—Referral of case back to regional committee.
180-24-210	Adjustment of assets and liabilities—Considerations.
180-24-213	Student enrollment effective under approved transfer of territory.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

180-24-215	Superintendent of public instruction staff review of regional committee proposals—When. [Statutory Authority: Chapter 28A.315 RCW. 03-23-040, § 180-24-215, filed 11/12/03, effective 12/13/03. Statutory Authority: 1999 c 315, partial veto and chapter 28A.315 RCW. 99-24-125, § 180-24-215, filed 12/1/99, effective 1/1/00.] Repealed by 05-19-112, filed 9/20/05, effective 10/21/05. Statutory Authority: RCW 28A.305.130(10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195.
180-24-400	Remote and necessary small school plants—Purpose and authority. [Statutory Authority: 1994 sp.s. c 6 § 502 (i)(e). 02-14-113, § 180-24-400, filed 7/2/02, effective 8/2/02; 95-20-055, § 180-24-400, filed 10/2/95, effective 11/2/95.] Decodified by 05-13-061, filed 6/10/05, effective 6/10/05. Recodified as WAC 180-16-241.
180-24-410	Remote and necessary small school plants—Criteria. [Statutory Authority: 1994 c 6 § 502 (i)(e). 02-14-113, § 180-24-410, filed 7/2/02, effective 8/2/02. Statutory Authority: 1994 1st sp.s. c 6 § 502 (1)(e). 97-21-069, § 180-24-410, filed 10/15/97, effective 11/15/97. Statutory Authority: 1994 sp.s. c 6 § 502(i)(e). 95-20-055, § 180-24-410, filed 10/2/95, effective 11/2/95.] Decodified by 05-13-061, filed 6/10/05, effective 6/10/05. Recodified as WAC 180-16-242.
180-24-415	Remote and necessary small school plants—Review committee. [Statutory Authority: 1994 sp.s. c 6 § 502 (i)(e). 02-14-113, § 180-24-415, filed 7/2/02, effective 8/2/02. Statutory Authority: 1994 1st sp.s. c 6 § 502 (1)(e). 97-21-069, § 180-24-415, filed 10/15/97, effective 11/15/97. Statutory Authority: 1994 sp.s. c 6 § 502(i)(e). 95-20-055, § 180-24-415, filed 10/2/95, effective 11/2/95.] Decodified by 05-13-061, filed 6/10/05, effective 6/10/05. Recodified as WAC 180-16-243.

WAC 180-24-00701 Regional committee decision making criteria. (1) The regional committee shall give consideration to all of the following criteria when reviewing the proposed transfer of territory:

(a) Student educational opportunities (see RCW 28A.315.205 (4)(a) for full text);

(b) Safety and welfare of pupils (see RCW 28A.315.205 (4)(b) for full text);

(c) History and relationship of the property affected to the students and communities affected (see RCW 28A.315.205 (4)(c) for full text). "Communities affected" includes all citizens living within the territory proposed to be transferred, all other citizens residing within the school district from which the proposed territory will be transferred, all citizens living within the immediate locale/neighborhood of which the proposed territory will become part, and all citizens residing within the school district to which the proposed territory will be transferred;

(d) Geographic accessibility (see RCW 28A.315.205 (4)(d) for full text);

(e) Disparities in per pupil valuation, economies of operation and transportation costs (see RCW 28A.315.205 (4)(e) for full text); and

(f) Other criteria or considerations as may be established in rule by the state board of education. (RCW 28A.315.015 (2)(e).)

(2) The boundaries of the school districts affected by a proposed change in school district organization shall be contiguous to one another.

(3) Under RCW 28A.315.205(4), "geographic accessibility" includes, but is not limited to, consideration of the following factors:

(a) Mountains, hills, valleys, wasteland, and related geographic and man-made features, which either enhance or impede travel.

(b) Rivers, lakes, canals, and other natural or man-made waterways and bodies of water, which either enhance or impede travel.

(c) The extent and nature of roads, highways, ferries, and traffic patterns.

(d) Climatic conditions.

(e) Time required to travel to and from school.

(4) In considering student educational opportunities under subsection (1)(a) of this section, the regional committee shall not consider one set of test scores, alone, as a sufficient basis to make a judgment about student educational opportunities. Test scores in the districts affected by the proposed transfer of territory shall be looked at in context, including over time and by disaggregating the scores by student subgroups.

(5) In considering geographic accessibility under subsection (1)(d) of this section, the regional committee shall make one judgment on geographic accessibility, regardless of how many individual components may apply to the particular transfer of territory petition.

(6) Each regional committee shall use the same criterion checklist included in the *Lay Persons's Guide to School District Boundaries* and published on the state board of education and superintendent of public instruction web sites.

(7) If a regional committee needs to continue a public hearing or schedule more than one additional hearing on a proposed transfer of territory, each such hearing is subject to public notice requirements.

(8) Regional committees shall use the decision format (motion) included in the *Lay Person's Guide to School District Boundaries* and published on the state board of education and superintendent of public instruction web sites.

[Statutory Authority: RCW 28A.305.130(10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195. 05-19-112, § 180-24-00701, filed 9/20/05, effective 10/21/05. Statutory Authority: Chapter 28A.315 RCW. 03-23-040, § 180-24-00701, filed 11/12/03, effective 12/13/03. Statutory Authority: 1999 c 315, partial veto and chapter 28A.315 RCW. 99-24-125, § 180-24-00701, filed 12/1/99, effective 1/1/00.]

WAC 180-24-195 Notification to state board of education of regional committee meetings. The secretary of each regional committee—i.e., the educational service district superintendent—shall notify the state board of education of all meetings of the regional committee.

[Statutory Authority: RCW 28A.305.130(10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195. 05-19-112, § 180-24-195, filed 9/20/05, effective 10/21/05. Statutory Authority: 1999 c 315, partial veto and chapter 28A.315 RCW. 99-24-125, § 180-24-195, filed 12/1/99, effective 1/1/00.]

WAC 180-24-207 Transfer of territory—Other district requirements. (1) At least one member of each school board whose district is affected by a proposed transfer of territory must be part of the respective district's negotiating team.

(2)(a) Upon reaching a decision recommendation through the district-to-district negotiation process on a proposed transfer of territory, the negotiating parties shall produce, at a minimum, a written summary of the recommendation, including rationale for the recommendation, and submit to the respective affected school district boards of directors.

(b) Each school board of directors shall adopt at a public meeting of the board a written resolution indicating whether the board approves or disapproves the recommendation on the proposed transfer of territory. The resolution format included in the *Lay Person's Guide to School District Boundaries* and published on the state board of education and superintendent of public instruction web sites shall be used.

[Statutory Authority: RCW 28A.305.130(10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195. 05-19-112, § 180-24-207, filed 9/20/05, effective 10/21/05.]

WAC 180-24-209 Transfer of territory—Sufficiency of written record for appeal to state board of education—Referral of case back to regional committee. (1) For purposes of review by the state board of education, the record of regional committee proceedings must be sufficient to allow the state board of education to determine what facts the regional committee relied on in applying the required statutory and regulatory criteria. Evidence of facts relied on may be contained in the written findings required in RCW 28A.315.205(2) or in a written verbatim transcript of the proceedings, or elsewhere in the record.

(2) When referring a transfer of territory case back to the originating regional committee, the state board of education will make every effort to submit the written referral within fourteen days of its decision.

[Statutory Authority: RCW 28A.305.130(10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195. 05-19-112, § 180-24-209, filed 9/20/05, effective 10/21/05.]

WAC 180-24-210 Adjustment of assets and liabilities—Considerations. (1) In determining an equitable adjustment of assets and liabilities, the negotiating school districts and the regional committees shall consider the factors under RCW 28A.315.245.

(2) A regional committee is authorized to phase in the adjustment of assets and liabilities over a period not less than two years nor more than eight years. This authorization is subject to the annual March 1 deadline for taxing districts to establish the taxing boundaries and rates for the ensuing tax collection year.

[Statutory Authority: RCW 28A.305.130(10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195. 05-19-112, § 180-24-210, filed 9/20/05, effective 10/21/05. Statutory Authority: 1999 c 315, partial veto and chapter 28A.315 RCW. 99-24-125, § 180-24-210, filed 12/1/99, effective 1/1/00.]

WAC 180-24-213 Student enrollment effective under approved transfer of territory. When a proposed transfer of territory has finally been approved, students in the affected territory may begin attending the appropriate school in the next logical term within the school year or beginning with the next school year, as determined by the parent(s) or legal guardian(s) of the student.

[Statutory Authority: RCW 28A.305.130(10), 28A.315.015 (2)(e), 28A.315.175, 28A.315.195. 05-19-112, § 180-24-213, filed 9/20/05, effective 10/21/05.]

Chapter 180-27 WAC

STATE ASSISTANCE IN PROVIDING SCHOOL PLANT FACILITIES—BASIC STATE SUPPORT

WAC

180-27-035 Space allocations.

WAC 180-27-035 Space allocations. (1) State assistance in the construction of school facilities for grades kindergarten through twelve and classrooms planned for the exclusive use of students with disabilities shall be based on a space allowance per enrolled student and for state matching purposes shall be computed in accordance with the following table:

Grade or Area	Through June 30, 2006 Maximum Matchable Area Per Student	Beginning July 1, 2006 Maximum Matchable Area Per Student
Grades kindergarten through six	80 square feet	90 square feet
Grades seven and eight	110 square feet	117 square feet
Grades nine through twelve	120 square feet	130 square feet
Classrooms for students with disabilities	140 square feet	144 square feet

For purposes of this subsection, students with disabilities shall be counted as one student for each such student assigned to a specially designated self-contained classroom for students with disabilities for at least one hundred minutes per school day, calculated on actual headcount enrollment submitted to the superintendent of public instruction.

(2) State assistance for construction of vocational skill centers shall be based on one-half of students enrolled on October 1 and computed as follows:

Type of Facility	Maximum Matchable Area Per One-Half Enrolled Student
Skill Centers	140 square feet

(3) Space allowance for state matching purposes for districts with senior or four-year high schools with fewer than four hundred students shall be computed in accordance with the following formula:

Number of Headcount Student-Grades 9-12	Maximum Matchable Area Per Facility
0-100	37,000 square feet
101-200	42,000 square feet
201-300	48,000 square feet
301-or more	52,000 square feet

[Statutory Authority: RCW 28A.525.020. 05-19-108, § 180-27-035, filed 9/20/05, effective 10/21/05; 01-19-044, § 180-27-035, filed 9/14/01, effective 10/15/01; 98-19-143, § 180-27-035, filed 9/23/98, effective 10/24/98. Statutory Authority: RCW 28A.47.830. 84-11-047 (Order 6-84), § 180-27-035, filed 5/17/84; 83-21-066 (Order 11-83), § 180-27-035, filed 10/17/83.]

Chapter 180-33 WAC

STATE ASSISTANCE IN PROVIDING SCHOOL PLANT FACILITIES—MODERNIZATION

WAC

180-33-015 Eligibility for state financial assistance.
180-33-025 Space eligible for state financial assistance in modernization.
180-33-035 Minimum project—Forty percent of replacement costs.
180-33-040 Maximum costs eligible for state matching purposes—One hundred percent of replacement cost.

WAC 180-33-015 Eligibility for state financial assistance. (1) In order to be eligible for state financial assistance, a modernization project shall have as its principal purpose one or more of the following:

(a) Bringing a facility into compliance with current building and health codes when so required by state or local health or safety officials;

(b) Changing the grade span grouping by facility by the addition, deletion, or combination thereof of two or more grades within the affected facility;

(c) The reduction of the number of operating school facilities in a district by combining the remaining school facilities through modernization and new capital construction so as to achieve more cost effective and efficient operation in the combined school facility or facilities. In order to be eligible for state financial assistance, such a project shall result in additional space for at least 100 additional pupils and the following enrollment in any combined facility:

(i) Elementary school facility—500 pupils;

(ii) Middle or junior high school facility—700 pupils;

(iii) Senior high school facility—850 pupils;

Provided, That modernization projects in school districts with a high school enrollment of less than 850 pupils need not comply with the enrollment figures set forth above: Provided further, That unless the district demonstrates the existence of unhoused students, state financial assistance for the new construction component of a combined modernization and new construction project shall be limited to the provision of WAC 180-33-040; or

(d) Meeting the educational program of the facility.

(2) School districts shall certify that a proposed modernization project will extend the life of the modernized school facility by at least twenty years.

(3) School districts shall be ineligible for state assistance for modernization of any school facility accepted by the school district board of directors prior to January 1, 1993, where the principal purpose of that modernization project is to:

(a) Restore building systems and subsystems that have deteriorated due to deferred maintenance;

(b) Perform piecemeal work on one section or system of a school facility;

(c) Modernize a facility or any section thereof which has been constructed within the previous twenty years;

(d) Modernize a facility or any section thereof which has received state assistance under the authority of this chapter within the previous twenty years;

(e) To modernize a senior high school facility in a district with a senior high school where there is existing space available to serve the students involved or affected in a neighboring senior high school without, in the judgment of the state board of education, an undue increase in the cost of transporting the students to and from school, decrease in educational opportunity, or proportional increase in the cost of instruction pursuant to chapter 180-25 WAC.

(4) School facilities accepted by the school district board of directors after January 1, 1993, shall be ineligible for state assistance for modernization of the facility or any section thereof where:

(a) The facility was constructed and occupied within the previous thirty years;

(b) The facility received state assistance under the authority of this chapter within the previous thirty years.

[Statutory Authority: RCW 28A.525.020. 05-23-046, § 180-33-015, filed 11/9/05, effective 12/10/05; 91-12-058, § 180-33-015, filed 6/5/91, effective 7/6/91. Statutory Authority: RCW 28A.47.830. 85-24-049 (Order 26-85), § 180-33-015, filed 11/27/85; 85-09-060 (Order 8-85), § 180-33-015, filed 4/17/85; 83-21-071 (Order 16-83), § 180-33-015, filed 10/17/83. Statutory Authority: RCW 28A.47.073. 81-24-049 (Order 13-81), § 180-33-015, filed 12/1/81.]

WAC 180-33-025 Space eligible for state financial assistance in modernization. Space allowance and enrollment projection provision for state matching purposes.

(1) In planning for modernization in any school facility, under the provisions of WAC 180-33-015 (1)(a) and (b), a school district shall estimate capacity needs on the basis of a cohort survival enrollment as per WAC 180-27-045. Any space above and beyond a school district's estimated capacity needs as calculated on the basis of a five-year cohort survival or adjusted cohort survival enrollment shall not be eligible for state financial assistance in modernization.

(2) The changes to this section shall take effect January 1, 2006: Provided, That those districts having authorized bond issues and/or excess tax levies for their building funds for specific school construction projects as identified in ballot propositions on or before July 1, 2006, may, when requesting state board of education consideration of state assistance for such projects, determine, in computing the amount of eligible space for modernization, the state will match the entire facility of three quarters of the overall square footage of the school districts' facilities is eligible for state financial assistance: Provided further, That the provision shall not be applicable to new construction in lieu of modernization facility projects authorized by this chapter.

[Statutory Authority: RCW 28A.525.020. 05-19-109, § 180-33-025, filed 9/20/05, effective 10/21/05; 98-09-052, § 180-33-025, filed 4/16/98, effective 5/17/98. Statutory Authority: RCW 28A.525.020 and 1992 c 233 § 28 (8)(e). 94-13-020, § 180-33-025, filed 6/3/94, effective 7/4/94. Statutory Authority: RCW 28A.47.830. 85-24-049 (Order 26-85), § 180-33-025, filed

11/27/85; 83-21-071 (Order 16-83), § 180-33-025, filed 10/17/83. Statutory Authority: RCW 28A.47.073. 81-24-049 (Order 13-81), § 180-33-025, filed 12/1/81.]

WAC 180-33-035 Minimum project—Forty percent of replacement costs. (1) State assistance in modernization of school facilities shall be limited to projects which may include an entire facility or one or more complete buildings within a facility for which the estimated cost of major structural change is not less than forty percent of the estimated cost of replacement. The estimated cost of major structural change shall not include the estimated capital costs associated with restoring building systems or subsystems due to deterioration as determined in the study and survey to be caused by deferred maintenance. The estimated cost of replacement shall be derived from multiplication of the total square foot area of the facility or facilities proposed for modernization by the area cost allowance for the fiscal year funded as in WAC 180-27-045 set forth.

(2) The state board of education may grant a waiver from subsection (1) of this section in the event of an unanticipated increase in the area cost allowance that might cause prior approved projects expecting state assistance to become disqualified for such assistance.

[Statutory Authority: RCW 28A.525.020. 05-19-110, § 180-33-035, filed 9/20/05, effective 10/21/05. Statutory Authority: RCW 28A.47.830 and 28A.525.020. 01-19-042, § 180-33-035, filed 9/14/01, effective 10/15/01. Statutory Authority: [RCW 28A.525.020.] 91-12-058, § 180-33-035, filed 6/5/91, effective 7/6/91. Statutory Authority: RCW 28A.47.830. 85-24-049 (Order 26-85), § 180-33-035, filed 11/27/85; 83-21-071 (Order 16-83), § 180-33-035, filed 10/17/83. Statutory Authority: RCW 28A.47.073. 81-24-049 (Order 13-81), § 180-33-035, filed 12/1/81.]

WAC 180-33-040 Maximum costs eligible for state matching purposes—One hundred percent of replacement cost. State assistance for modernization projects shall not exceed one hundred percent of the cost of new construction of a comparable school facility based on the prevailing level of state support as defined in chapter 180-27 WAC. Costs exceeding one hundred percent shall be paid by the local district.

[Statutory Authority: RCW 28A.525.020. 05-19-111, § 180-33-040, filed 9/20/05, effective 10/21/05; 98-19-138, § 180-33-040, filed 9/23/98, effective 10/24/98. Statutory Authority: RCW 28A.47.830. 83-21-071 (Order 16-83), § 180-33-040, filed 10/17/83. Statutory Authority: RCW 28A.47.073. 81-24-049 (Order 13-81), § 180-33-040, filed 12/1/81.]

Chapter 180-38 WAC

PUPILS—IMMUNIZATION REQUIREMENT AND LIFE-THREATENING HEALTH CONDITION

WAC

180-38-005

Purpose and authority.

WAC 180-38-005 Purpose and authority. (1) The purpose of this chapter is to establish the procedural and substantive due process requirements governing the exclusion of students from public and private schools for failure to comply with the immunization requirement of the state of Washington or, in the case of public schools only, failure to present a medication or treatment order for a life-threatening health condition.

(2) The authority for this chapter is RCW 28A.210.160.

[Statutory Authority: RCW 28A.210.160. 05-23-044, § 180-38-005, filed 11/9/05, effective 12/10/05; 02-24-019, § 180-38-005, filed 11/26/02, effective 12/27/02. Statutory Authority: 1990 c 33. 90-17-009, § 180-38-005, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW 28A.31.118. 85-20-040 (Order 20-85), § 180-38-005, filed 9/25/85.]

Chapter 180-46 WAC LIBRARY MEDIA CENTERS

WAC

180-46-005	Purpose and authority.
180-46-009	Definitions.
180-46-020	School library media program.
180-46-025	Services.
180-46-055	Other sources.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

180-46-010	Library media centers. [Statutory Authority: RCW 28A.320.240. 92-24-025, § 180-46-010, filed 11/24/92, effective 12/25/92; Order 15-75, § 180-46-010, filed 12/11/75.] Repealed by 05-08-013, filed 3/28/05, effective 4/28/05. Statutory Authority: RCW 28A.320.240.
180-46-015	Library media collections. [Statutory Authority: RCW 28A.320.240. 92-24-025, § 180-46-015, filed 11/24/92, effective 12/25/92. Statutory Authority: RCW 28A.04.134. 81-12-023 (Order 5-81), § 180-46-015, filed 6/1/81; Order 15-75, § 180-46-015, filed 12/11/75.] Repealed by 05-08-013, filed 3/28/05, effective 4/28/05. Statutory Authority: RCW 28A.320.240.
180-46-030	Equipment and materials. [Statutory Authority: RCW 28A.320.240. 92-24-025, § 180-46-030, filed 11/24/92, effective 12/25/92. Statutory Authority: RCW 28A.04.134. 81-12-023 (Order 5-81), § 180-46-030, filed 6/1/81; Order 15-75, § 180-46-030, filed 12/11/75.] Repealed by 05-08-013, filed 3/28/05, effective 4/28/05. Statutory Authority: RCW 28A.320.240.
180-46-035	Production. [Order 15-75, § 180-46-035, filed 12/11/75.] Repealed by 05-08-013, filed 3/28/05, effective 4/28/05. Statutory Authority: RCW 28A.320.240.
180-46-040	Facilities. [Statutory Authority: RCW 28A.320.240. 92-24-025, § 180-46-040, filed 11/24/92, effective 12/25/92; Order 15-75, § 180-46-040, filed 12/11/75.] Repealed by 05-08-013, filed 3/28/05, effective 4/28/05. Statutory Authority: RCW 28A.320.240.
180-46-045	Staff. [Statutory Authority: RCW 28A.320.240. 92-24-025, § 180-46-045, filed 11/24/92, effective 12/25/92. Statutory Authority: RCW 28A.04.134. 81-12-023 (Order 5-81), § 180-46-045, filed 6/1/81; Order 15-75, § 180-46-045, filed 12/11/75.] Repealed by 05-08-013, filed 3/28/05, effective 4/28/05. Statutory Authority: RCW 28A.320.240.
180-46-050	Access. [Statutory Authority: RCW 28A.320.240. 92-24-025, § 180-46-050, filed 11/24/92, effective 12/25/92; Order 15-75, § 180-46-050, filed 12/11/75.] Repealed by 05-08-013, filed 3/28/05, effective 4/28/05. Statutory Authority: RCW 28A.320.240.
180-46-065	Program evaluation. [Statutory Authority: RCW 28A.320.240. 92-24-025, § 180-46-065, filed 11/24/92, effective 12/25/92. Statutory Authority: RCW 28A.04.134. 81-12-023 (Order 5-81), § 180-46-065, filed 6/1/81.] Repealed by 05-08-013, filed 3/28/05, effective 4/28/05. Statutory Authority: RCW 28A.320.240.

WAC 180-46-005 Purpose and authority. (1) The purpose of this chapter is to identify quality criteria for school library media programs, as may be established locally, that support the attainment of the state's learning goals.

(2) The authority for this chapter is RCW 28A.320.240.

[Statutory Authority: RCW 28A.320.240. 05-08-013, § 180-46-005, filed 3/28/05, effective 4/28/05; 92-24-025, § 180-46-005, filed 11/24/92, effective 12/25/92. Statutory Authority: 1990 c 33. 90-17-009, § 180-46-005, filed 8/6/90, effective 9/6/90; Order 1-76, § 180-46-005, filed 2/3/76; Order 15-75, § 180-46-005, filed 12/11/75.]

WAC 180-46-009 Definitions. (1) "Teacher-librarian" means a certified teacher with a library media endorsement under WAC 180-82A-202 (1)(i), 180-82-344, or 180-82-346.

(2) "School library media program" means a school-based program that is staffed by a certificated teacher-librarian.

[Statutory Authority: RCW 28A.320.240. 05-08-013, § 180-46-009, filed 3/28/05, effective 4/28/05.]

WAC 180-46-020 School library media program. The school library media program is to include resources that promote a positive impact on student learning, such as a variety of resources for reading advocacy, student communication skills, electronic and print information, and resources that support student mastery of the essential academic learning requirements in all subject areas and the implementation of the district's school improvement plan, consistent with the goals for Washington common schools, as adopted by the state board of education.

[Statutory Authority: RCW 28A.320.240. 05-08-013, § 180-46-020, filed 3/28/05, effective 4/28/05; 92-24-025, § 180-46-020, filed 11/24/92, effective 12/25/92; Order 15-75, § 180-46-020, filed 12/11/75.]

WAC 180-46-025 Services. The teacher-librarian, through the school library media program, shall collaborate as an instructional partner and informational specialist with classroom teachers to develop students' information and technology skills, help all students meet the content goals in all subject areas, and assist high school students completing the culminating project and high school and beyond plans required for graduation under WAC 180-51-061.

[Statutory Authority: RCW 28A.320.240. 05-08-013, § 180-46-025, filed 3/28/05, effective 4/28/05; 92-24-025, § 180-46-025, filed 11/24/92, effective 12/25/92; Order 15-75, § 180-46-025, filed 12/11/75.]

WAC 180-46-055 Other sources. Library media centers should provide direct access to a wide range of print and electronic resources. When it is not feasible to provide resources at the building level, the use of sources beyond the building shall be considered an alternate way of providing access.

[Statutory Authority: RCW 28A.320.240. 05-08-013, § 180-46-055, filed 3/28/05, effective 4/28/05; 92-24-025, § 180-46-055, filed 11/24/92, effective 12/25/92; Order 15-75, § 180-46-055, filed 12/11/75.]

Chapter 180-50 WAC COURSES OF STUDY AND EQUIVALENCIES

WAC

180-50-320	Equivalency course of study—National Guard high school career training and Washington National Guard youth challenge program—Approval procedures.
180-50-325	Washington National Guard youth challenge program—Course content—Credits.

WAC 180-50-320 Equivalency course of study—National Guard high school career training and Washington National Guard youth challenge program—Approval procedures. (1) School districts may accept National Guard high school career training and Washington National Guard youth challenge program participation in lieu of either required or elective high school credits. Students who are

enrolled in such training or a National Guard program with the approval of the school district of last attendance shall be considered enrolled in such district for state equalization apportionment and other appropriate purposes in accord with the provisions of RCW 28A.150.310.

(2) Approval by the district shall be obtained prior to a student's participation in a National Guard career training or youth challenge program as follows:

(a) An appropriate form provided by the National Guard shall be completed and filed with the school district; and

(b) The number of credits toward high school graduation to be granted shall be calculated, agreed upon by the student and an authorized representative of the school district, and such agreement shall be noted on the form required under (a) of this subsection.

(c) Credit toward high school graduation may be granted by the school district upon written certification by a National Guard training unit commander or National Guard youth challenge program instructor that the student has met all program requirements.

[Statutory Authority: RCW 28A.305.130. 05-23-049, § 180-50-320, filed 11/9/05, effective 12/10/05. Statutory Authority: RCW 28A.04.120 (6) and (8). 84-21-004 (Order 12-84), § 180-50-320, filed 10/4/84.]

WAC 180-50-325 Washington National Guard youth challenge program—Course content—Credits. See WAC 180-51-120.

[Statutory Authority: RCW 28A.305.130. 05-23-049, § 180-50-325, filed 11/9/05, effective 12/10/05.]

Chapter 180-51 WAC

HIGH SCHOOL GRADUATION REQUIREMENTS

WAC

180-51-035	Applicable standards for graduation for students under age twenty-one—Applicable standards for graduation for students age twenty-one or older—Amendments to this chapter.
180-51-050	High school credit—Definition.
180-51-110	Equivalency credit for alternative learning experiences, nonhigh school courses, electronically mediated courses, work experience, and challenges.
180-51-120	Washington National Guard youth challenge program—Course content—Credits.

WAC 180-51-035 Applicable standards for graduation for students under age twenty-one—Applicable standards for graduation for students age twenty-one or older—Amendments to this chapter. (1) All students entering a high school program in Washington state shall be assigned an expected graduation year as required by federal law and this section. Once students are assigned a graduation year, they will be aligned to the requirements for that specific graduating class and subject to the provisions of this section.

(a) Students shall be assigned an expected graduation year based on the year they commence 9th grade, or for out-of-district and out-of-state transfer students, based on local district policy: Provided, That the expected graduation year for students receiving special education services shall be assigned and based on an Individualized Education Program (IEP) team determination in the year in which the student turns sixteen.

(b) Students shall have the right and the obligation to meet the minimum graduation requirements in place for their expected graduation year designated at the time they enter a district high school, regardless of what year they actually graduate.

(2) A student under age twenty-one shall have the right to graduate in accordance with the standards in effect for the school of graduation for any year since such student commenced the ninth grade or the equivalent of a four-year high school program and until the student turns age twenty-one.

(3)(a) A student age twenty-one or older who earns a high school diploma through the adult high school completion option under WAC 180-51-053 shall be required to meet the state minimum graduation credit requirements under WAC 180-51-060 or 180-51-061, depending on when the student began their high school program. Such students shall not be required to meet the following state minimum graduation requirements under WAC 180-51-061: Certificate of academic achievement or certificate of individual achievement;

(b) The state board of education reserves the prerogative to determine if and when the waived requirements under (a) of this subsection shall be required to earn an adult high school completion diploma.

(4) All subsequent amendments to this chapter and all subsequent local standards shall apply prospectively to the students who enter the ninth grade or begin the equivalent of a four-year high school program subsequent to the amendments.

[Statutory Authority: Chapter 28A.230 RCW and RCW 28B.50.915. 05-21-007, § 180-51-035, filed 10/6/05, effective 11/6/05; 04-20-093, § 180-51-035, filed 10/5/04, effective 11/5/04. Statutory Authority: RCW 28A.230.090. 00-19-108, § 180-51-035, filed 9/20/00, effective 10/21/00. Statutory Authority: Chapter 28A.05 RCW. 84-11-049 (Order 7-84), § 180-51-035, filed 5/17/84.]

WAC 180-51-050 High school credit—Definition. As used in this chapter the term "high school credit" shall mean:

(1) Grades nine through twelve or the equivalent of a four-year high school program, and grades seven and eight under the provisions of RCW 28A.230.090 (4) and (5):

(a) One hundred fifty hours of planned instructional activities approved by the district; or

(b) Satisfactory demonstration by a student of clearly identified competencies established pursuant to a process defined in written district policy. Districts are strongly advised to confirm with the higher education coordinating board that the award of competency-based high school credit meets the minimum college core admissions standards set by the higher education coordinating board for admission into a public, baccalaureate institution.

(2) College and university course work. At the college or university level, five quarter or three semester hours shall equal 1.0 high school credit: Provided, That for the purpose of this subsection, "college and university course work" means course work that generally is designated 100 level or above by the college or university.

(3) Community/technical college high school completion program - Diploma awarded by community/technical colleges. Five quarter or three semester hours of community/technical college high school completion course work

shall equal 1.0 high school credit: Provided, That for purposes of awarding equivalency credit under this subsection, college and university high school completion course work includes course work that is designated below the 100 level by the college and the course work is developmental education at grade levels nine through twelve or the equivalent of a four-year high school program. (See also WAC 180-51-053)

(4) Community/technical college high school completion program - Diploma awarded by school district. A minimum of .5 and a maximum of 1.0 high school credit may be awarded for every five quarter or three semester hours of community/technical college high school completion course work: Provided, That for purposes of awarding equivalency credit under this subsection, college and university high school completion course work includes course work that is designated below the 100 level by the college and the course work is developmental education at grade levels nine through twelve or the equivalent of a four-year high school program. (See also WAC 180-51-053)

(5) Each high school district board of directors shall adopt a written policy for determining the awarding of equivalency credit authorized under subsection (4) of this section. The policy shall apply uniformly to all high schools in the district.

(6) Each high school district board of directors shall adopt a written policy regarding the recognition and acceptance of earned credits. The policy shall apply to all high schools in the district. The policy may include reliance on the professional judgment of the building principal or designee in determining whether or not a credit meets the district's standards for recognition and acceptance of a credit. The policy shall include an appeal procedure to the district if it includes reliance on the professional judgment of the building principal or designee.

(7) A student must first obtain a written release from their school district to enroll in a high school completion program under subsection (3) of this section if the student has not reached age eighteen or whose class has not graduated.

(8) The state board of education shall notify the state board for community and technical colleges and the higher education coordinating board of any school or school district that awards high school credit as authorized under subsection (1)(b) of this section.

[Statutory Authority: Chapter 28A.230 RCW. 05-19-105, § 180-51-050, filed 9/20/05, effective 10/21/05. Statutory Authority: Chapter 28A.230 RCW and RCW 28B.50.915. 04-20-093, § 180-51-050, filed 10/5/04, effective 11/5/04. Statutory Authority: RCW 28A.150.220(4), 28A.305.140, and 28A.305.130(6). 04-04-093, § 180-51-050, filed 2/3/04, effective 3/5/04. Statutory Authority: RCW 28A.230.090. 00-23-032, § 180-51-050, filed 11/8/00, effective 12/9/00; 99-10-093, § 180-51-050, filed 5/4/99, effective 6/4/99. Statutory Authority: RCW 28A.230.090 and 28A.305.130. 97-08-020, § 180-51-050, filed 3/25/97, effective 4/25/97; 96-09-027, § 180-51-050, filed 4/9/96, effective 5/10/96. Statutory Authority: RCW 28A.230.090, 28A.305.130 and 1994 c 222. 95-16-063, § 180-51-050, filed 7/27/95, effective 8/27/95. Statutory Authority: RCW 28A.230.090(1) and 28A.305.130 (8) and (9). 94-13-017, § 180-51-050, filed 6/3/94, effective 7/4/94. Statutory Authority: RCW 28A.230.090. 94-03-100 (Order 1-94), § 180-51-050, filed 1/19/94, effective 9/1/94. Statutory Authority: RCW 28A.05.060. 85-12-041 (Order 12-85), § 180-51-050, filed 6/5/85. Statutory Authority: Chapter 28A.05 RCW. 84-11-049 (Order 7-84), § 180-51-050, filed 5/17/84.]

WAC 180-51-110 Equivalency credit for alternative learning experiences, nonhigh school courses, electronically mediated courses, work experience, and challenges. The board of directors of a district offering a high school diploma shall adopt written policies providing for the granting of high school graduation credit for alternative learning experiences, nonhigh school courses, work experience, and challenges. High school credits may be given for, but not limited to, the following:

(1) Planned learning experiences conducted away from the school under the supervision or with the approval of the school and linked to one or more of the state learning goals and related essential academic learning requirements;

(2) Work experience on the basis that four hundred five hours of work experience equals one credit;

(3) National Guard high school career training and National Guard youth challenge;

(4) Postsecondary courses in accredited colleges and universities. In the case of courses taken under the statutory running start option under RCW 28A.600.300 through 28A.600.400, the district shall award high school credit pursuant to RCW 28A.230.090(6);

(5) Courses in accredited or approved technical colleges;

(6) Correspondence courses from accredited colleges and universities or schools approved by the National University Education Association or the Distance Education and Training Council;

(7) Electronically mediated courses meeting standards which shall be adopted by written policy by the school district, or standards adopted by the Northwest Association of Schools and Colleges, or the Distance Education and Training Council, or the Commission for International and Trans-regional Accreditation;

(8) Other courses offered by any school or institution if specifically approved for credit by the district; and

(9) Credit based on competency testing, in lieu of enrollment or taking specific courses, may be granted by the district.

[Statutory Authority: RCW 28A.230.090. 05-23-058, § 180-51-110, filed 11/10/05, effective 12/11/05; 00-19-108, § 180-51-110, filed 9/20/00, effective 10/21/00. Statutory Authority: RCW 28A.05.060. 85-12-041 (Order 12-85), § 180-51-110, filed 6/5/85. Statutory Authority: Chapter 28A.05 RCW. 84-11-049 (Order 7-84), § 180-51-110, filed 5/17/84.]

WAC 180-51-120 Washington National Guard youth challenge program—Course content—Credits. In order to assure that an appropriate number of high school credits are awarded to students who complete a National Guard youth challenge program, whether the program involves a contract with a school district or is operated independently, the following provisions shall apply:

(1) High school credit may be awarded only if the course content is of high school level rigor as determined by and to the district's satisfaction - ninth grade or above, or meets or exceeds the state essential academic learning requirements or grade level expectations at ninth grade or above for the particular subject.

(2) In the case of a contract between a school district and a National Guard youth challenge program, the contract, pursuant to WAC 180-50-320 (2)(b), shall identify the credits the student will be awarded upon satisfactory achievement of

the specific learning standards identified in the contract. Determination of satisfactory achievement rests with the school district and may include consideration of recommendations of the program instructor or representative and review of the student's performance while enrolled in the program.

(3)(a) If a student enrolls in a National Guard youth challenge program that is conducted independently, then, when a student reenrolls in a school district, the district's policy on awarding credit under WAC 180-51-050(6) shall apply.

(b) Credits may be awarded on a Carnegie unit basis as provided under WAC 180-51-050 (1)(a).

(c) Credits may be awarded on a competency basis as provided under WAC 180-51-050 (1)(b).

[Statutory Authority: RCW 28A.230.090. 05-23-058, § 180-51-120, filed 11/10/05, effective 12/11/05.]

Chapter 180-55 WAC SCHOOL ACCREDITATION

WAC

180-55-005	Purposes and authority.
180-55-015	Definitions.
180-55-017	Criteria for state board of education recognition of accrediting bodies.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

180-55-034	Temporary extension of accreditation status. [Statutory Authority: RCW 28A.150.220(4), 28A.305.140, and 28A.305.130(6). 04-04-093, § 180-55-034, filed 2/3/04, effective 3/5/04; 02-18-056, § 180-55-034, filed 8/28/02, effective 9/28/02.] Repealed by 05-04-016, filed 1/24/05, effective 2/24/05. Statutory Authority: RCW 28A.150.220(4), 28A.305.140, and 28A.305.130(6).]
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WAC 180-55-005 Purposes and authority. (1) **Purposes.** The provision of school accreditation procedures by the state board of education is designed to serve the following purposes:

(a) Support the state board's long-term vision of a performance-based education system under WAC 180-51-001 by aligning school accreditation requirements to continuous improvement of student learning, achievement, and growth;

(b) Promote educational excellence and equity for every student through enhancement of the quality and effectiveness of the school's educational program in safe and supportive learning environments;

(c) Promote staff growth and commitment to the learning of every student;

(d) Build stronger links with families, parents, and the community by reaching consensus about educational expectations through family, parent, and community involvement;

(e) Provide a statement of accountability to the public;

(f) Assure that school districts, under the district policy on recognizing earned credits under WAC 180-51-050, shall accept credits earned from schools or programs, accredited by the state board of education or other accrediting body as may be recognized by the state board of education pursuant to WAC 180-55-017; and

(g) Facilitate the sharing of effective schools practices and positive impacts on student learning through an external appraisal process.

(2) **Authority.** The authority for this chapter is RCW 28A.305.130(6).

[Statutory Authority: RCW 28A.150.220(4), 28A.305.130(6), and 28A.305.140. 05-08-015, § 180-55-005, filed 3/28/05, effective 4/28/05; 04-04-093, § 180-55-005, filed 2/3/04, effective 3/5/04; 02-18-056, § 180-55-005, filed 8/28/02, effective 9/28/02. Statutory Authority: RCW 28A.305.130(6). 91-04-015, § 180-55-005, filed 1/28/91, effective 2/28/91. Statutory Authority: 1990 c 33. 90-17-009, § 180-55-005, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW 28A.04.120(4). 81-08-027 (Order 2-85), § 180-55-005, filed 3/26/81.]

WAC 180-55-015 Definitions. (1) An "accredited school" is a public or state board of education approved private school that meets statutory requirements and rules established by the state board of education, and one that has satisfactorily completed the accreditation procedures described by the state board of education pursuant to RCW 28A.305.130(6) and WAC 180-55-005 through 180-55-020.

(2) "Approved private school" shall mean a school approved by the state board of education pursuant to chapter 28A.195 RCW and chapter 180-90 WAC.

(3) "Accredited" status shall be assigned to public or state board of education approved private schools that:

(a) Complete and meet fully state board of education requirements for accreditation as described in WAC 180-55-020, or;

(b) Participate and qualify in accordance with standards and procedures established by accrediting bodies or processes recognized by the state board of education.

(4) "School improvement plan" shall mean the same as described under WAC 180-16-220 (2)(b) and (d).

(5) "Continuous improvement process" shall mean the ongoing process used by a school to monitor, adjust, and update its school improvement plan.

(6) "Self-review" shall mean the same as described under WAC 180-16-220 (2)(c).

(7) "Appraisal" shall mean an objective, external appraisal of a school's self-review activities and school improvement plan pursuant to WAC 180-55-020(5).

(8) "Recognized accrediting body" shall mean an organization recognized by the state board of education and listed on the state board website.

(9) "Recognized accrediting process" shall mean the state board of education process managed through the educational service districts.

[Statutory Authority: RCW 28A.150.220(4), 28A.305.130(6), and 28A.305.140. 05-08-015, § 180-55-015, filed 3/28/05, effective 4/28/05; 04-04-093, § 180-55-015, filed 2/3/04, effective 3/5/04; 02-18-056, § 180-55-015, filed 8/28/02, effective 9/28/02. Statutory Authority: RCW 28A.305.130(6). 91-04-015, § 180-55-015, filed 1/28/91, effective 2/28/91. Statutory Authority: 1990 c 33. 90-17-009, § 180-55-015, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW 28A.04.120(4). 84-11-050 (Order 8-84), § 180-55-015, filed 5/17/84; 81-08-027 (Order 2-85), § 180-55-015, filed 3/26/81.]

WAC 180-55-017 Criteria for state board of education recognition of accrediting bodies. (1)(a) A recognized accrediting body shall meet the definition of such pursuant to WAC 180-55-015(8).

(b) Accrediting bodies recognized by the state board of education shall verify that standards for schools seeking accreditation through them meet or exceed the school accreditation standards pursuant to WAC 180-16-220.

(c) Accrediting bodies recognized by the state board of education for the specific purpose of accrediting state board approved private schools, prior to being considered by the state board for recognition, shall have their accreditation standards verified for compliance under (b) of this subsection by a private school advisory committee established by the superintendent of public instruction. If verified, the committee may recommend the accrediting body to the state board for recognition.

(d) A list of recognized accrediting bodies will be maintained on the website of the state board of education.

(2)(a) Public school districts must be approved by the state board of education prior to a school in the district being recommended by a state board of education recognized accrediting body for state accreditation consideration.

(b) Public schools may not seek accreditation through a sectarian affiliated accrediting body. Public schools may seek accreditation through a state board of education recognized accrediting body or process and be recommended for state accreditation consideration.

(c) Private schools must be approved by the state board of education prior to being recommended by a state board of education recognized accrediting body or process for state accreditation consideration.

[Statutory Authority: RCW 28A.150.220(4), 28A.305.130(6), and 28A.305.140. 05-08-015, § 180-55-017, filed 3/28/05, effective 4/28/05.]

Chapter 180-57 WAC

SECONDARY EDUCATION—STANDARDIZED HIGH SCHOOL TRANSCRIPT

WAC

180-57-070

Mandatory high school transcript contents—Items—
Timelines.

WAC 180-57-070 Mandatory high school transcript contents—Items—Timelines. (1)(a) The standardized high school transcript shall contain only the information listed in subsection (2) of this section in order to meet the statutory requirements under RCW 28A.305.220 for a statewide standardized transcript.

(b) Any other information the district or school may desire to include may be stapled to the transcript or otherwise provided with the transcript. Information that is not listed below shall not be included on the state standardized transcript:

(2)(a) Authorized and required transcript information effective now:

(i) The student's legal name (last name, first name, and middle name(s) or middle initial(s)), and other or former names used;

(ii) The name(s) of parent(s) or guardian(s);

(iii) The student's birthdate (mm/dd/yyyy);

(iv) The student's school district identification number (if applicable);

(v) The school name, address, phone number, and name of the school district issuing the transcript;

(vi) A list of previous schools attended where credit was attempted (school name, city, state, and month and year of entrance and exit);

(vii) The student's academic history for all high school level courses attempted, including courses taken under RCW 28A.230.090(4) and including those courses where a student has withdrawn, and listed by report period for the grade level (month and year), course code and description, marks/grades earned as defined in WAC 180-57-050 (a mark/grade of "W" will be used to indicate a withdrawal from a course), credits attempted and earned as defined in WAC 180-57-040, grade point average as defined in WAC 180-57-055, and a report period and cumulative summary of the student's high school level academic history.

(viii) Credits attempted for courses taken more than once to improve a grade/mark may count only once toward the number of credits required for graduation, except that credits attempted for courses taken more than once to improve a grade may count toward the number of credits required for graduation on the condition that the letter grades earned for all attempts are included in the calculation of the student's grade point average. For the purpose of this subsection, districts and schools shall not convert letter grades to grades/marks not used in the grade point average calculation.

(b) Authorized and required additional transcript information effective beginning with the graduating class of 2006:

(i) The following courses, for which college credit can be earned, shall be designated on the transcript with the designation coding indicated. Courses completed and credits earned through running start shall be noted with an "R" designation. Courses completed and credits earned through advanced placement shall be noted with an "A" designation. Courses completed and credits earned through college in the high school shall be noted with a "C" designation. Courses completed and credits earned through an international baccalaureate program shall be noted with an "I" designation. Courses completed which earn college credit through techprep and/or the corresponding credits or certification earned shall be noted with a "T" designation. Courses that meet or satisfy higher education coordinating board core course requirements shall be noted with a "B" designation. Courses completed and credits earned through an honors option shall be noted with an "H" designation;

(ii)(A) Notation of the student's actual highest scale score and level achieved for each content area on the Washington assessment of student learning (noting month and year);

(B) Notation of "no score" if the Washington assessment of student learning was not taken;

(C) Notation of the student's actual highest level achieved on the Washington alternate assessment system (WAAS) that has been taken by a student eligible to take the WAAS (noting month and year);

(c) Authorized and required additional transcript information effective beginning with the graduating class of 2008:

(i) Notation that the high school and beyond plan graduation requirement was met (noting month and year) or not met by the student;

(ii) Notation that the culminating project graduation requirement was met (noting month and year) or not met by the student; and

(iii) Notation that the certificate of academic achievement graduation requirement was met (noting month and year) or not met by the student in one of the following ways:

(A) Based on the student's actual highest scale score and level achieved for each content area of the Washington assessment of student learning.

A "scholar designation" shall be noted on the transcript when a student achieves level four on each content area on the Washington assessment of student learning on the first attempt at taking each content area assessment.

(B) Based in whole or in part on the student's results on an alternative assessment approved by the legislature under section 101(7), chapter 19, Laws of 2004, including the student's actual highest earned performance rating on the alternate assessment (noting month and year);

(C) Notation that the certificate of individual achievement graduation requirement was met (noting month and year) or not met by the student based on the student's results on an assessment of the objectives in the student's individual education plan using the Washington alternate assessment system (WAAS).

(3) Each issuance of the transcript shall include a report date (mm/dd/yyyy), graduation date (noting month and year), end of transcript record (signifying no more authorized data), office of superintendent of public instruction (OSPI) transcript form version number, and page number ('x' of 'y').

(4) The signature of the authorized school official (name, title, and date) and seal of the district, if available. The signature of the authorized school official may be affixed electronically, subject to a written district policy that addresses signature security and assures that the authorized school official acknowledges, in writing, that affixing their signature electronically to the transcript is a legal and binding action.

[Statutory Authority: RCW 28A.305.220, 05-19-106, § 180-57-070, filed 9/20/05, effective 10/21/05; 04-22-059, § 180-57-070, filed 10/29/04, effective 11/29/04; 03-04-055, § 180-57-070, filed 1/29/03, effective 3/1/03; 01-09-013, § 180-57-070, filed 4/6/01, effective 5/7/01. Statutory Authority: RCW 28A.04.155, 00-19-107, § 180-57-070, filed 9/20/00, effective 10/21/00; 85-01-017 (Order 18-84), § 180-57-070, filed 12/10/84.]

Chapter 180-105 WAC

PERFORMANCE IMPROVEMENT GOALS

WAC

180-105-020	Reading and mathematics.
180-105-040	Definitions.
180-105-060	High school graduation.

WAC 180-105-020 Reading and mathematics. (1)

Each school district board of directors shall by December 15, 2003:

(a) Adopt district-wide performance improvement goals using the federal requirements to determine the increase in the percentage of students who meet or exceed the standard on the Washington assessment of student learning for reading and mathematics in grades four, seven, and ten; and

(b) Direct each school in the district that administers the Washington assessment of student learning for grade four, seven, or ten to adopt performance improvement goals using the federal requirements to determine the increase in the percentage of students meeting the standard for its fourth, seventh, or tenth grade students in reading and mathematics.

(2) School districts and schools shall establish separate district-wide and school reading and mathematics improvement goals using the federal requirements to determine the increase in requirements under subsection (1) of this section for each of the following groups of students:

- (a) All students;
- (b) Students of each major racial and ethnic group;
- (c) Economically disadvantaged students;
- (d) Students with disabilities; and
- (e) Students with limited English proficiency.

(3) School districts and schools are not required to publish numerical improvement goals in a grade level for reading and mathematics for 2004 or in any year thereafter for any student group identified in subsection (2) of this section in which there were fewer than ten students eligible to be assessed on the Washington assessment of student learning in the prior year. However, this subsection shall not be construed to affect WAC 180-16-220 (2)(b) or any other requirements for school and school district improvement plans.

(4) Annual performance improvement goals for both school districts and schools shall be determined:

(a) By using the starting point and annual goals established using the federal requirements for determining starting points in the 2003 Washington State No Child Left Behind (NCLB) Accountability Plan.

(b) If the performance improvement goals established by using the federal requirements to determine the increase for assessments administered in the spring of 2003 and each year thereafter through and including assessments administered in the spring of 2013 are not met, but the other indicator is met [the other indicator for high schools is the graduation goal (WAC 3-20-300) and the other indicator for elementary and middle schools is the unexcused absences goal (Washington State Accountability System under NCLB 2001)] then a substitute calculation may be made. That substitute calculation representing satisfactory progress shall not be less than the sum of:

(i) The percentage of students meeting standard on the assessments administered in the spring of the preceding year for the relevant student group, grade level and subject; and

(ii) The percentage of students who did not meet standard on the assessments administered in the spring of the preceding year for the relevant student group, grade level and subject, multiplied by ten percent.

(c) The performance improvement goals for assessments administered in the spring of 2014 shall be that all students eligible to be assessed meet standard on the Washington assessment of student learning.

(5) School districts and schools shall be deemed to have met the performance improvement goals established pursuant to this chapter if the school district or school achieves the minimum improvement goal required under subsection (4) of this section, even if the school district or school does not achieve the performance improvement goals established by using the federal requirements to determine the increase.

(6) No performance improvement goal for a group in a subject and grade established pursuant to this section shall be used for state or federal accountability purposes if fewer than thirty students in the group for a subject and grade are eligible to be assessed on the Washington assessment of student learning.

[05-15-036, recodified as § 180-105-020, filed 7/11/05, effective 7/11/05. Statutory Authority: RCW 28A.655.030 (1)(a). 03-09-144, § 3-20-200, filed 4/23/03, effective 5/24/03.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

WAC 180-105-040 Definitions. As used in Title 3 WAC:

(1) "High school" means a public school in the state enrolling students in any of grades nine through twelve.

(2) "Graduation rate" means the percentage of students who receive a regular high school diploma within four academic years of having enrolled for the first time as ninth grade students. Students who transfer to another school less than four academic years after initial enrollment in the ninth grade shall not be included in the calculation of the graduation rate for the school from which the student transfers. Students who become deceased shall not be included in the calculation of the graduation rate for the school last attended. Students who earn a regular high school diploma after their four academic years will be included in additional calculations and reports for the year a regular high school diploma is completed.

(3) "Graduation rate goal" means the expected minimum graduation rate reported in a particular year for the prior year's graduating class. For example, the graduation rate goal for 2006 relates to students in the class of 2005.

(4) "Graduating class" or "class of" or "cohort" of any particular year means the group of students who are scheduled to graduate in that particular year after having completed grades nine through twelve in four or fewer academic years.

[05-15-036, recodified as § 180-105-040, filed 7/11/05, effective 7/11/05. Statutory Authority: RCW 28A.655.030 (1)(a). 05-11-046, § 3-20-390, filed 5/12/05, effective 6/13/05.]

WAC 180-105-060 High school graduation. (1) Each school district board of directors shall by December 15, 2005, revise district-wide graduation rate goals for 2006 and each year thereafter and shall direct each high school in the district to revise graduation rate goals for 2006 and each year thereafter, subject to approval by the board.

(2) The minimum graduation rate goals through 2013 shall be as follows for each of the nine groups of students listed in WAC 3-20-200(2):

(a) Sixty-six percent in 2005, one percentage point above the previous year's goal from 2006 through 2009, and three percentage points above the previous year's goal in 2010 through 2013; or

(b) For any student group whose graduation rate falls below sixty-six percent in 2005, the minimum goal for 2005 is two percentage points above that group's graduation rate in 2004, an additional two percentage points per year above the previous year's goal in 2006 through 2009, and an additional four percentage points per year above the previous year's goal in 2010 through 2013, until the rate for that group meets or exceeds the goal described in (a) of this subsection.

(3) Graduation rate goals in 2014 and each year thereafter for each group of students listed in WAC 3-20-200(2) shall be not less than eighty-five percent.

(4) School district boards of directors are authorized to adopt district-wide graduation rate goals and to approve high

school graduation rate goals that exceed the minimum level required under this section. However, district-wide and high school graduation rate goals that exceed the minimum level required under this section shall not be used for federal or state accountability purposes.

[05-15-036, recodified as § 180-105-060, filed 7/11/05, effective 7/11/05. Statutory Authority: RCW 28A.655.030 (1)(a). 05-11-046, § 3-20-400, filed 5/12/05, effective 6/13/05.]

Title 181 WAC PROFESSIONAL EDUCATOR STANDARDS BOARD

Chapters

181-01

181-77

181-77A

181-78A

181-79A

181-82

181-82A

181-83

181-85

181-86

181-87

181-88

WEST-B Exemption.

Standards for career and technical education certification.

Approval standards for career and technical education teacher preparation programs based on business and industry work experience.

Approval standards for performance-based preparation programs for teachers, administrators, and educational staff associates.

Standards for teacher, administrator, and educational staff associate certification.

Certificate endorsements and assignment of certificated personnel.

Performance-based teacher certificate endorsements.

Internships.

Professional certification—Continuing education requirement.

Professional certification—Policies and procedures for administration of certification proceedings.

Professional certification—Acts of unprofessional conduct.

Definitions of sexual misconduct, verbal abuse and physical abuse—Mandatory disclosure—Prohibited agreements.

Chapter 181-01 WAC

WEST-B EXEMPTION

WAC

181-01-004

Appeals process.

WAC 181-01-004 Appeals process. The Washington professional educator standards board may permit exceptions from the assessment requirements under RCW 28A.410.220 (1) and (2) on a case-by-case basis. Consistent with the discretion accorded to the professional educator standards board in RCW 28A.410.220(3), the exemptions and extensions pro-

vided for in WAC 181-01-001 through 181-01-003, shall be the sole exceptions to the WEST-B and WEST-E assessment requirements.

[Statutory Authority: RCW 28A.410.220(c). 05-04-024, § 181-01-004, filed 1/25/05, effective 2/25/05.]

Chapter 181-77 WAC

STANDARDS FOR CAREER AND TECHNICAL EDUCATION CERTIFICATION

WAC

181-77-001	Authority.
181-77-002	Purpose.
181-77-003	Definitions.
181-77-005	Types of career and technical education certificates.
181-77-012	Levels of career and technical education instructional certificates.
181-77-014	Requirements for limited certification.
181-77-015	Certificate validity and renewal.
181-77-020	Certificate required.
181-77-025	Personnel assignment.
181-77-031	Requirements for candidates seeking career and technical education certification who have completed approved college/university programs in a career and technical education endorsement area.
181-77-041	Requirements for candidates seeking career and technical education certification on the basis of business and industry work experience.
181-77-068	Requirements for coordinator of work-based learning initial or continuing certificates.
181-77-070	Specific standards for certification of local career and technical education administrative personnel.
181-77-075	Levels, validity and standards for certification of local career and technical education counselors.
181-77-080	Levels, validity and standards for certification of occupational information specialist.
181-77-110	Career and technical education instructor certification reciprocity.
181-77-120	Out-of-state candidates.
181-77-122	Appeal procedures.

WAC 181-77-001 Authority. The authority for this chapter is RCW 28A.410.010 which authorizes the state board of education to establish, publish, and enforce rules and regulations determining eligibility for and certification of personnel employed in the common schools of this state.

[06-02-051, recodified as § 181-77-001, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 95-12-056, § 180-77-001, filed 6/2/95, effective 7/3/95.]

WAC 181-77-002 Purpose. The purposes of this chapter are to establish the various career and technical education certificates which must be held as a condition to employment in the Washington school system and establish the conditions and procedures governing issuance and retention of those and other career and technical education certificates.

[06-02-051, recodified as § 181-77-002, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-002, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010. 95-12-056, § 180-77-002, filed 6/2/95, effective 7/3/95.]

WAC 181-77-003 Definitions. The following definitions shall apply to terms used in this chapter:

(1) "Approved program for training career and technical education teachers and career and technical education counselors" shall be defined as any program approved by the state board of education which complies with chapter 180-77A WAC [181-77A WAC].

[2006 WAC Supp—page 318]

(2) "Career and technical education educator training" shall mean those career and technical education programs, courses, seminars and workshops offered for the purpose of career and technical education certification in compliance with chapter 180-85 WAC [181-85 WAC].

(3) "General safety" shall mean course work approved by the state board of education and/or its designee that is designed to provide skill and knowledge common to all career and technical education instructors in safety.

(4) "Specific safety requirements" shall mean completion of course work approved by the state board of education and/or its designee which is designed to provide the career and technical education instructor with the specific skill and knowledge of safety for the occupation he or she is to teach.

(5) "Learning period" shall mean the amount of time required prior to becoming gainfully employed at the journeyman or equivalent level in the occupation being taught. In any case, this shall be no less than one year.

(6) "Management experience" shall mean work as a supervisor, foreman or manager in the occupational area in which the person will instruct.

(7) "Occupational experience" shall mean paid or unpaid work experience in the career field to be taught.

(8) "One year of occupational experience" shall equal two thousand hours of employment.

(9) "Professional education" shall mean those programs, courses, seminars and workshops that are designed to improve teaching ability.

(10) "Professional experience" shall mean employment in career and technical education in the discipline and/or specialty for which the application has been submitted.

(11) "Quarter hours or the equivalent" shall mean one quarter credit, two-thirds semester credit, ten clock hours or one hundred hours of occupational experience.

(12) "Technical education/upgrading" shall mean those career and technical education programs, courses, seminars and workshops which are designed to improve the skills and/or knowledge in the discipline in which the application is being made.

[06-02-051, recodified as § 181-77-003, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-003, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010. 98-01-026, § 180-77-003, filed 12/8/97, effective 1/8/98; 97-04-085, § 180-77-003, filed 2/5/97, effective 3/8/97; 95-12-056, § 180-77-003, filed 6/2/95, effective 7/3/95. Statutory Authority: RCW 28A.70.005. 78-10-003 (Order 11-78), § 180-77-003, filed 9/7/78.]

WAC 181-77-005 Types of career and technical education certificates. The following types of certificates shall be issued:

(1) Teacher. The teacher certificate authorizes service as a teacher in the school district(s) or skills center(s) and shall be issued in one of the following categories and/or in a specific subcategory of the major category as approved by the state board of education and/or its designee:

- (a) Agriculture education;
- (b) Business education;
- (c) Marketing education;
- (d) Family and consumer sciences education;
- (e) Technology education;
- (f) Trade and industrial;
- (g) Health occupations;

- (h) Diversified occupations;
- (i) Coordinator for work-based learning; or
- (j) New and emerging fields;

(2) Director. The director certificate authorizes service as a career and technical education director, as an assistant director, or as a career and technical education supervisor in the school district(s) or skills center(s);

(3) Counselor. The career and technical education counselor certificate authorizes service in the role of career and technical education guidance and counseling;

(4) Occupational information specialist. The occupational information specialist certificate authorizes service in the role as an occupational information specialist.

[06-02-051, recodified as § 181-77-005, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-005, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010. 95-12-056, § 180-77-005, filed 6/2/95, effective 7/3/95. Statutory Authority: RCW 28A.70.005. 78-10-003 (Order 11-78), § 180-77-005, filed 9/7/78.]

WAC 181-77-012 Levels of career and technical education instructional certificates. The following levels of career and technical education certificates may be issued:

(1) Initial. The initial certificate allows the holder to assume independent responsibility for working with students in career and technical education programs;

(2) Initial renewal. The initial renewal certificate allows the holder to assume independent responsibility for working with students in career and technical education programs;

(3) Continuing. The continuing certificate allows the holder to assume independent responsibility for working with students in career and technical education programs;

(4) Continuing renewal. The continuing renewal certificate allows the holder to assume independent responsibility for working with students in career and technical education programs.

[06-02-051, recodified as § 181-77-012, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-012, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010. 95-12-056, § 180-77-012, filed 6/2/95, effective 7/3/95.]

WAC 181-77-014 Requirements for limited certification. (1) Probationary certificate. The probationary certificate is valid for two years and is renewable one time for two additional years upon recommendation of the employing district if the individual has completed the procedures outlined for the first year in the professional growth plan and has made additional progress in meeting the requirements for the initial career and technical education certificate.

The candidate for a probationary certificate must have substantially completed requirements for the initial career and technical education certificate as set forth in WAC 180-77-031 [181-77-031] or 180-77-041 [181-77-041].

(a) Such a certificate may be issued upon recommendation by the employing school district.

(b) The candidate shall have developed a professional growth plan in cooperation with the career and technical education administrator. The plan must be approved by the local school district career and technical education program advisory committee, to which the candidate is assigned. The plan

shall provide for orientation, prior to the commencement of the teaching assignment, in the following:

- (i) Issues related to legal liability;
- (ii) The responsibilities of professional career and technical education educators; and
- (iii) The lines of authority in the employing school district and/or building.

Within the first sixty working days, the plan shall establish procedures for the career and technical education instructor to develop competencies in the following:

- (iv) Career and technical education methods; and
- (v) General and specific safety.

If the candidate does not have access to the required course work within the first ninety working days, the local school district career and technical education advisory committee responsible may authorize the completion of the course work at a later date. The required course work shall be completed prior to the second year of employment.

(vi) The plan shall develop procedures and timelines for the career and technical education instructor to meet the requirements for the initial career and technical education certificate.

(vii) Provided, That candidates for probationary certificates as a coordinator of work-based learning shall successfully demonstrate competencies related to coordination techniques as verified by a state board of education approved program and hold a valid probationary career and technical education teacher certificate.

(2) Conditional career and technical education certificate. Notwithstanding other requirements prescribed in this chapter for eligibility for career and technical education certification in the state of Washington, the one-year conditional career and technical education certificate may be issued under specific circumstances set forth below for limited service:

(a) The issuance of the conditional career and technical education certificate may be issued only under unique and special circumstances where no regularly certificated career and technical education instructor is available and is limited to:

- (i) Persons highly qualified and experienced in the knowledge and occupational skills of the career and technical education program to be certified; or
- (ii) Persons who meet the occupational experience requirements for career and technical education certification; or
- (iii) Persons who will be employed in new and emerging occupations as identified by the state board of education and/or its designee.

(b) The certificate is issued to individuals who are screened by the local career and technical education administrator and school district superintendent or designee. The local career and technical education administrator or superintendent will verify that the following criteria have been met when requesting the conditional career and technical education certificate:

- (i) No person with career and technical education certification in the field is available as verified by the local career and technical education administrator or superintendent;

(ii) The individual is being certified for a limited assignment and responsibility in a specified career and technical education program area;

(iii) Personnel so certificated will be oriented and prepared for the specific assignment and will be apprised of any legal liability, the lines of authority and the duration of the assignment;

(iv) The career and technical education administrator and local program advisory committee will indicate the basis on which he/she has determined that the individual is competent for the assignment;

(v) A written work and/or educational experience training plan as specified in WAC 180-77-014 [181-77-014] (1)(b) is on file with the employing district.

(c) The certificate is valid for one year and only for the teaching area specified on the certificate. The certificate may be reissued on application and evidence that requirements continue to be met.

(3) Substitute career and technical education certificates. Substitute career and technical education certificates may be issued to candidates who meet the requirements in WAC 180-79A-231 [181-79A-231] (2) or (4).

[06-02-051, recodified as § 181-77-014, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 03-23-038, § 180-77-014, filed 11/12/03, effective 12/13/03. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-014, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77-014, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010. 98-01-026, § 180-77-014, filed 12/8/97, effective 1/8/98; 95-12-056, § 180-77-014, filed 6/2/95, effective 7/3/95.]

WAC 181-77-015 Certificate validity and renewal.

(1) The initial certificate is valid for four years and may be renewed two times in accordance with WAC 180-77-031 [181-77-031] or 180-77-041 [181-77-041].

(2) The initial renewal certificate is valid for three years and may be renewed one time in accordance with WAC 180-77-031 [181-77-031] (2)(a) or 180-77-041 [181-77-041] (2)(a).

(3) The continuing certificate is valid for five years and may be renewed every five years in accordance with WAC 180-77-031(4) [181-77-031(4)] or 180-77-041(4) [181-77-041(4)].

[06-02-051, recodified as § 181-77-015, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 95-12-056, § 180-77-015, filed 6/2/95, effective 7/3/95. Statutory Authority: RCW 28A.70.005. 78-10-003 (Order 11-78), § 180-77-015, filed 9/7/78.]

WAC 181-77-020 Certificate required. Persons serving as career and technical education instructors, career and technical education directors and assistant directors, career and technical education supervisors, career and technical education counselors, and occupational information specialists shall hold certificates authorized by the state board of education for service in the respective roles.

[06-02-051, recodified as § 181-77-020, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-020, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010. 95-12-056, § 180-77-020, filed 6/2/95, effective 7/3/95. Statutory Authority: RCW 28A.70.005. 78-10-003 (Order 11-78), § 180-77-020, filed 9/7/78.]

WAC 181-77-025 Personnel assignment. Career and technical education teachers teaching other secondary school subjects and career and technical education counselors serving in addition as general counselors need to hold a valid certificate as provided for in chapter 180-79A WAC [181-79A WAC], Standards for teacher, administrator, and educational staff associate certification.

[06-02-051, recodified as § 181-77-025, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-025, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010. 98-01-026, § 180-77-025, filed 12/8/97, effective 1/8/98. Statutory Authority: RCW 28A.70.005. 78-10-003 (Order 11-78), § 180-77-025, filed 9/7/78.]

WAC 181-77-031 Requirements for candidates seeking career and technical education certification who have completed approved college/university programs in a career and technical education endorsement area. Candidates shall complete the following requirements in addition to those set forth in WAC 180-79A-150 [181-79A-150], 180-79A-155 [181-79A-155], 180-82-322 [181-82-322], and chapter 180-78A WAC [181-78A WAC].

(1) Initial.

(a) Candidates for the initial certificate shall hold a baccalaureate degree from a regionally accredited college or university which includes a minimum of forty-five quarter hours of study in the specific career and technical education subject area for which certification is sought.

(b) Candidates for the initial certificate shall demonstrate competency in one or more of the specific endorsement areas of WAC 180-82-322 [181-82-322].

(c) Candidates for the initial certificate shall complete a state approved career and technical education teacher training program through a regionally accredited college or university which shall include completion of student teaching in the relevant career and technical education subject area.

(d) Candidates for the initial certificate shall provide documentation of one year of paid occupational experience (two thousand hours) in the specific career and technical education field for which certification is sought. If all or part of the two thousand hours is more than six years old, candidates must complete an additional three hundred hours of recent (occurring in the last two years) occupational experience.

(e) In addition, candidates for initial certification in diversified occupations or coordinator of work based learning shall demonstrate competency in knowledge and skills described in WAC 180-77A-180 [181-77A-180].

(2) Initial renewal. Candidates for renewal of the initial certificate must complete three quarter hours of credit or thirty clock hours of career and technical education educator training in the subject area certified to teach since the initial certificate was issued or renewed.

(3) Continuing.

(a) Candidates for the continuing certificate shall have in addition to the requirements for the initial certificate at least nine quarter hours or ninety clock hours of career and technical education educator training in the career and technical education subject area to be certified completed subsequent to the conferral of the baccalaureate degree.

(b) Candidates for the continuing certificate shall provide as a condition for the issuance of a continuing certificate documentation of two years of teaching/coordination in the

career and technical education subject area certified to teach with an authorized employer—i.e., school district(s) or skills center(s).

(4) Continuing certificate renewal.

(a) Candidates for renewal of the continuing certificate shall complete since the previous continuing certificate was issued one of the following:

(i) Six quarter hours or sixty clock hours of career and technical education educator training;

(ii) Three quarter hours or thirty clock hours of career and technical education educator training and three quarter hours or thirty clock hours of technical education/upgrading;

(iii) Three quarter hours or thirty clock hours of career and technical education educator training and three hundred hours of occupational experience.

[06-02-051, recodified as § 181-77-031, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-031, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77-031, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010. 98-01-026, § 180-77-031, filed 12/8/97, effective 1/8/98; 97-04-085, § 180-77-031, filed 2/5/97, effective 3/8/97; 95-12-056, § 180-77-031, filed 6/2/95, effective 7/3/95.]

WAC 181-77-041 Requirements for candidates seeking career and technical education certification on the basis of business and industry work experience. Candidates for certification who have not completed approved programs set forth in WAC 180-82-322 [181-82-322] shall complete the following requirements in addition to those set forth in WAC 180-79A-150 [181-79A-150] (1) and (2) and 180-79A-155 [181-79A-155] (1) and (2).

(1) Initial.

(a) Candidates for the initial certificate shall provide documentation of three years (six thousand hours) of paid occupational experience in the specific career and technical education subcategory for which certification is sought. One year (two thousand hours) must be within the past six years. If all or part of the two thousand hours is more than six years old, candidates must complete an additional three hundred hours of recent (occurring in the last two years) occupational experience.

(b) Candidates for the initial certificate shall complete a state board of education approved program under WAC 180-77A-029 [181-77A-029] in which they demonstrate competence in the general standards for all career and technical education teacher certificate candidates pursuant to WAC 180-77A-165 [181-77A-165], which include but are not limited to knowledge and skills in the following areas:

- (i) General and specific safety;
- (ii) Career and technical education teaching methods;
- (iii) Occupational analysis;
- (iv) Course organization and curriculum design;
- (v) Philosophy of vocational education;
- (vi) Personal student development and leadership techniques.

(c) Candidates for the initial certificate shall also demonstrate knowledge and skills in the following areas:

- (i) School law;
- (ii) Issues related to abuse as specified in WAC 180-77A-165(7) [181-77A-165(7)].

(d) In addition, candidates for initial certification in diversified occupations or coordinator of work based learning shall demonstrate competency in knowledge and skills described in WAC 180-77A-180 [181-77A-180].

(2) Initial renewal. Candidates for renewal of the initial certificate must complete three quarter hours of credit or thirty clock hours of career and technical education educator training in the subject matter certified to teach since the initial certificate was issued or renewed.

(3) Continuing.

(a) Candidates for the continuing certificate shall have in addition to the requirements for the initial certificate at least nine quarter hours or ninety clock hours of career and technical education educator training in the career and technical education subject matter to be certified completed subsequent to the issuance of the initial certificate.

(b) Candidates for the continuing certificate shall provide as a condition for the issuance of a continuing certificate documentation of two years of teaching/coordination in the career and technical education subject matter certified to teach with an authorized employer—i.e., school district(s) or skills center(s).

(4) Continuing certificate renewal.

(a) Candidates for renewal of the continuing certificate shall complete since the previous continuing certificate was issued one of the following:

(i) Six quarter hours or sixty clock hours of career and technical education educator training;

(ii) Three quarter hours or thirty clock hours of career and technical education educator training and three quarter hours or thirty clock hours of technical education/upgrading;

(iii) Three quarter hours or thirty clock hours of career and technical education educator training and three hundred hours of occupational experience.

[06-02-051, recodified as § 181-77-041, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 02-18-039, § 180-77-041, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-041, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77-041, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010. 98-01-026, § 180-77-041, filed 12/8/97, effective 1/8/98; 97-04-085, § 180-77-041, filed 2/5/97, effective 3/8/97; 95-12-056, § 180-77-041, filed 6/2/95, effective 7/3/95.]

WAC 181-77-068 Requirements for coordinator of work-based learning initial or continuing certificates. To obtain a coordinator of work-based learning certificate, a candidate must:

(1) Possess a valid initial or continuing career and technical education teaching certificate; and

(2) Successfully demonstrate competencies related to coordination techniques as verified by a state board of education approved program.

[06-02-051, recodified as § 181-77-068, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 03-14-119, § 180-77-068, filed 6/30/03, effective 7/31/03; 02-04-018, § 180-77-068, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010. 95-12-056, § 180-77-068, filed 6/2/95, effective 7/3/95.]

WAC 181-77-070 Specific standards for certification of local career and technical education administrative personnel. (1) The local director and local assistant director and supervisor of career and technical education must be eli-

gible for a continuing career and technical education certificate in one of the career and technical education program areas for career and technical education for initial certification as a director and must meet the following:

(a) The director must have educational requirements which are satisfactory to the local board of education;

(b) The director must have thirty quarter credits or the equivalent of career and technical education educator training including a course in supervision and administration of career and technical education, or equivalent experience;

(c) The director must have had three years of experience as a certificated career and technical education supervisor, career and technical education instructor, career and technical education counselor or occupational information specialist.

(2) In order to renew the local director of career and technical education certificate, six quarter credits or the equivalent of professional education or course work in career and technical education supervisory or managerial subjects, or equivalent professional experience, is required.

[06-02-051, recodified as § 181-77-070, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-070, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010, 95-12-056, § 180-77-070, filed 6/2/95, effective 7/3/95. Statutory Authority: RCW 28A.70.005, 78-10-003 (Order 11-78), § 180-77-070, filed 9/7/78.]

WAC 181-77-075 Levels, validity and standards for certification of local career and technical education counselors. Career and technical education counselors are required to meet the following:

(1) Counselors are required to possess a valid educational staff associate—counselor certificate as provided in WAC 180-79A-221(1) [181-79A-221(1)], in counseling and/or graduated from an institution of higher education in a counselor education program which includes study in such subjects as economics, sociology, psychology, political science and sources of occupational information in order to obtain a one-year certificate. All vocational counselors must have completed courses in the following or equivalent experiences:

(a) Techniques of counseling or counseling theory to include individual and/or group;

(b) Tests and measurements and/or individual mental measurement and/or psychological evaluation;

(c) Counseling practice;

(d) Philosophy of vocational education;

(e) Counselors must have had two years of varied work experience in the last ten years other than teaching or counseling experience;

(f) Experience is suggested in dealing with employment and personnel problems and with placement and evaluation of workers in business, industry, agriculture, education and/or government service.

(2) The requirements for a three-year certificate are as follows:

(a) The counselor must have possessed a one-year certificate in the past two years;

(b) Counselors must have had one year of career and technical education counseling;

(c) Counselors must have three quarter credits or the equivalent of approved professional education since the previous certificate.

(3) The requirements for a five-year certificate are as follows:

(a) Counselors must have had two years of career and technical education counseling during the previous three-year certificate;

(b) Counselors are required to have had six quarter credits or the equivalent of approved training in career and technical education counseling and/or career and technical education since the previous certificate.

(4) To renew a counselor certificate the following is required:

(a) The one-year certificate may be renewed two times;

(b) The three-year certificate may be renewed one time provided:

(i) The counselor has had one year of career and technical education counseling during the life of the previous certificate; and

(ii) The counselor has had three quarter credits or the equivalent training in career and technical education counseling and/or career and technical education since the previous certificate.

(c) The five-year certificate may be renewed every five years provided:

(i) The counselor has had two years of career and technical education counseling during the previous five-year career and technical education certificate; and

(ii) The counselor has had six quarter credits or the equivalent of career and technical education training and/or equivalent experience.

[06-02-051, recodified as § 181-77-075, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-075, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010, 00-18-064, § 180-77-075, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010, 95-12-056, § 180-77-075, filed 6/2/95, effective 7/3/95. Statutory Authority: RCW 28A.70.005, 78-10-003 (Order 11-78), § 180-77-075, filed 9/7/78.]

WAC 181-77-080 Levels, validity and standards for certification of occupational information specialist. Occupational information specialists must meet the following requirements:

(1) Requirements for a one-year certificate for occupational information specialist are three years of full-time paid occupational experience of which two years shall have been in the last six years, dealing with employment or personnel problems and with placement and evaluation of workers; or two years of career and technical education teaching experience in an approved career and technical education program under the state plan for career and technical education;

(2) Requirements for a three-year certificate are as follows:

(a) The occupational information specialist must possess a one-year certificate within the preceding two years and must have one hundred twenty hours of professional experience during the life of the previous certificate;

(b) The occupational information specialist must have a total of nine quarter credits or the equivalent approved professional education;

(c) The occupational information specialist is required to have three quarter credits or the equivalent approved professional education since the last certificate.

(3) Requirements for a five-year certificate are as follows:

(a) Possession of a three-year career and technical education certificate within the preceding two years;

(b) Career and technical education occupational information specialist experience of two years during the life of the previous certificate;

(c) A total of eighteen quarter credits or the equivalent of professional education.

(4) To renew an occupational information specialist certificate the following are required:

(a) The one-year certificate may be renewed two times;

(b) The three-year certificate may be renewed one time when the following are met:

(i) Professional experience of one hundred twenty hours as an occupational information specialist during the life of the previous certificate; and

(ii) Three quarter credits or the equivalent of professional education and/or equivalent experience since the previous certificate.

[06-02-051, recodified as § 181-77-080, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-080, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010. 95-12-056, § 180-77-080, filed 6/2/95, effective 7/3/95. Statutory Authority: RCW 28A.70.005. 78-10-003 (Order 11-78), § 180-77-080, filed 9/7/78.]

WAC 181-77-110 Career and technical education instructor certification reciprocity. The superintendent of public instruction will recognize community and technical college instructors certified under WAC 131-16-091 through 131-16-095 when these individuals provide instruction to high school students. These instructors must maintain their certification in good standing and, when employed to provide services within a public common school shall be required to have completed and have on file:

(1) Documentation of completion of the issues of abuse requirement pursuant to RCW 28A.410.035; and

(2) A background check as defined in WAC 180-79A-150(2) [181-79A-150(2)] and RCW 28A.410.010; and

(3) Evidence of good moral character as required in WAC 180-79A-155 [181-79A-155].

[06-02-051, recodified as § 181-77-110, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-110, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77-110, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010. 95-12-056, § 180-77-110, filed 6/2/95, effective 7/3/95. Statutory Authority: RCW 28A.410.050(2). 92-05-039, § 180-77-110, filed 2/12/92, effective 3/14/92.]

WAC 181-77-120 Out-of-state candidates. Out-of-state applicants shall be eligible for Washington career and technical education certificates if they meet the standards in chapter 180-77 WAC [181-77 WAC] or as follows: Provided, That candidates who apply for a career and technical education certificate who have not successfully completed course work or an in-service program including a minimum of ten clock hours of instruction on issues of abuse, must complete such course work or in-service program as a condition

of the issuance of a career and technical education certificate. The content of the course work or in-service program shall discuss the identification of physical, emotional, sexual, and substance abuse, information on the impact of abuse on the behavior and learning abilities of students, discussion of the responsibilities of a teacher to report abuse or provide assistance to students who are victims of abuse, and methods for teaching students about abuse of all types and their prevention.

(1) Initial certificate. The initial certificate shall be issued by the superintendent of public instruction to a candidate who has two thousand hours of paid occupational experience and who meets one of the following:

(a) Qualifies under provisions of the interstate compact;

(b) Holds the appropriate degree and, if applicable, credit hours and/or licensing as set forth in this chapter and has completed a state-approved preparation program at a regionally accredited college or university in the professional field for which the certificate is to be issued and such additional professional fields as required by WAC 180-79A-150(4) [181-79A-150(4)].

(c) Holds an appropriate career and technical education certificate issued by another state and had practiced at the P-12 level in that respective role outside the state of Washington for three years and has completed competency-based teacher training.

(2) Continuing certificate. The continuing certificate shall be issued on verification that the candidate has met all requirements for initial and continuing certification in the state of Washington.

[06-02-051, recodified as § 181-77-120, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 04-23-005, § 180-77-120, filed 11/4/04, effective 12/5/04. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-120, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010. 01-18-043, § 180-77-120, filed 8/29/01, effective 9/29/01; 98-01-026, § 180-77-120, filed 12/8/97, effective 1/8/98; 97-04-085, § 180-77-120, filed 2/5/97, effective 3/8/97; 95-12-056, § 180-77-120, filed 6/2/95, effective 7/3/95.]

WAC 181-77-122 Appeal procedures. Career and technical education certification candidates who apply directly to the superintendent of public instruction for a certificate, certificate renewal, or certificate reinstatement and whose application is denied shall be entitled to appeal that decision in accordance with the appeal procedures in chapter 180-86 WAC [181-86 WAC].

[06-02-051, recodified as § 181-77-122, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77-122, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010. 99-01-172, § 180-77-122, filed 12/23/98, effective 1/23/99; 95-12-056, § 180-77-122, filed 6/2/95, effective 7/3/95.]

Chapter 181-77A WAC

APPROVAL STANDARDS FOR CAREER AND TECHNICAL EDUCATION TEACHER PREPARATION PROGRAMS BASED ON BUSINESS AND INDUSTRY WORK EXPERIENCE

WAC

181-77A-003	Authority.
181-77A-004	Overview.
181-77A-006	Purpose.
181-77A-025	Program approval.

181-77A-029	Procedures for initial approval of a career and technical education teacher preparation program for candidates applying under WAC 180-77-041 [181-77-041].
181-77A-030	Length of time for which a career and technical education teacher program based on business and industry work experience shall be approved.
181-77A-033	Probationary status for a career and technical education teacher preparation program based on business and industry work experience.
181-77A-037	Procedures for reestablishment of approval status for a career and technical education teacher preparation program based on business and industry work experience.
181-77A-040	Responsibilities of the designated program administrator.
181-77A-057	Approval of a career and technical education teacher preparation program based on business and industry work experience offered by an out-of-state provider within the state applicable to certification.
181-77A-080	Substitute pay for members of program advisory committees.
181-77A-165	General standards for all career and technical education teacher certification based on business and industry work experience.
181-77A-175	Work experience program standards.
181-77A-180	Career and technical education teacher preparation specialty standards.
181-77A-195	Course work/internship waiver.

WAC 181-77A-003 Authority. The authority for this chapter is RCW 28A.410.010 which authorizes the state board of education to establish, publish, and enforce rules and regulations determining eligibility and certification of personnel employed in the common schools of this state. This authority is supplemented by RCW 28A.305.130 (1) and (2) which authorizes the state board of education to approve educator preparation programs in institutions of higher education.

[06-02-051, recodified as § 181-77A-003, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-003, filed 2/5/97, effective 3/8/97.]

WAC 181-77A-004 Overview. These rules establish a performance-based preparation system for educators that supports the Improvement of Student Achievement Act of 1993 (1209) which will enable educators to implement the Washington state student learning goals and essential academic learning requirements. These rules also provide a framework for consistency and quality preparation of career and technical education teacher certification candidates using industry or business work experience.

Specifically, this chapter describes the procedures and standards for colleges/universities and other agencies or institutions to be approved as providers of preparation programs for career and technical education teacher certification based on business and industry work experience. In addition to colleges and universities, programs may be provided by community and technical colleges, school districts, educational service districts, or any combination of the above.

Finally, this chapter identifies the general standards which must be demonstrated by all successful applicants for career and technical education teacher certification based on business and industry work experience and the specific standards which will be demonstrated by those applying for certification in specialty areas.

[06-02-051, recodified as § 181-77A-004, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77A-004, filed 1/24/02, effective 2/24/02. Statutory

Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77A-004, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-004, filed 2/5/97, effective 3/8/97.]

WAC 181-77A-006 Purpose. This chapter establishes procedures, standards, and criteria to be used in the development and approval of career and technical education teacher preparation programs based on business and industry work experience and identifies the knowledge and skill expected of all candidates.

[06-02-051, recodified as § 181-77A-006, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77A-006, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77A-006, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-006, filed 2/5/97, effective 3/8/97.]

WAC 181-77A-025 Program approval. All programs leading to career and technical education certification based on business and industry work experience offered in Washington state to prepare career and technical education teachers shall be approved pursuant to the requirements of this chapter.

[06-02-051, recodified as § 181-77A-025, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77A-025, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77A-025, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-025, filed 2/5/97, effective 3/8/97.]

WAC 181-77A-029 Procedures for initial approval of a career and technical education teacher preparation program for candidates applying under WAC 180-77-041 [181-77-041]. Using the criteria published by the office of the superintendent of public instruction as a guideline, each program provider, which shall be a college or university, community or technical college, school district, educational service district, or any combination of the above, desiring to establish a career and technical education teacher preparation program for candidates applying under WAC 180-77-041 [181-77-041] shall comply with the following:

(1) Advise the state board of education of the desire to establish the career and technical education teacher preparation program, identifying the agencies involved and the administrator of the program.

(2) Establish and maintain a representative program advisory committee including career and technical education teachers from the discipline, at least one first-year teacher (if applicable) who has completed the respective program, career and technical education administrators, and industry and/or community representatives.

The purpose of the program advisory committee is to advise, validate, and review the integrity of the respective career and technical education teacher education program.

(3) Describe the planned process that the approved career and technical education teacher preparation program will use to assess, in multiple ways, over time, its career and technical education teacher candidates knowledge and skills as required by WAC 180-77A-165 [181-77A-165], includ-

ing, where appropriate, evidence related to positive impact on student learning.

(4) Describe the plan for assuring that adequate resources will be provided to support the program and that faculty will have the appropriate qualifications and work experience for the roles assigned.

(5) Present the plan to the state board of education.

[06-02-051, recodified as § 181-77A-029, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77A-029, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77A-029, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-12-014, § 180-77A-029, filed 5/21/99, effective 6/21/99. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-029, filed 2/5/97, effective 3/8/97.]

WAC 181-77A-030 Length of time for which a career and technical education teacher program based on business and industry work experience shall be approved. (1) The state board of education shall approve all programs under these program approval standards for five years unless the state board of education approves a variation.

(2) The state board of education, upon receipt of a complaint from any source or upon its initiative, may review all or any part of a program for compliance with the provisions of this chapter. If deviations are found, the state board of education is authorized to rescind program approval until the program provider submits an acceptable compliance agreement which will bring the program into compliance as soon as reasonably practicable but no later than the commencement of the succeeding academic year or six calendar months, whichever is later.

(3) If an acceptable compliance agreement is not developed and approved by the state board of education, the program shall be placed on probationary status and the probationary status provision of WAC 180-77A-033 [181-77A-033] shall apply.

[06-02-051, recodified as § 181-77A-030, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77A-030, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77A-030, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-030, filed 2/5/97, effective 3/8/97.]

WAC 181-77A-033 Probationary status for a career and technical education teacher preparation program based on business and industry work experience. Program providers with approved programs shall not lose official approval status until the state board of education has taken final action to disapprove the program: Provided, That programs shall be permitted for the current and one additional academic year following receipt of the formal notice of disapproval to continue as an approved preparation program on probationary status for the purpose of completing the program for those candidates for certification currently enrolled in the program and who are scheduled to complete such program within such academic years and for the purpose of regaining state board of education approval.

[06-02-051, recodified as § 181-77A-033, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77A-033, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-

77A-033, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-033, filed 2/5/97, effective 3/8/97.]

WAC 181-77A-037 Procedures for reestablishment of approval status for a career and technical education teacher preparation program based on business and industry work experience. The procedures for the reestablishment of state board of education approval of a program shall be the same as the procedure for initial approval as provided in WAC 180-77A-029 [181-77A-029].

[06-02-051, recodified as § 181-77A-037, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77A-037, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77A-037, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-037, filed 2/5/97, effective 3/8/97.]

WAC 181-77A-040 Responsibilities of the designated program administrator. Each provider of an approved career and technical education teacher preparation program based on business and industry work experience pursuant to WAC 180-77A-029 [181-77A-029] shall require the administrator to coordinate the following responsibilities:

(1) Submit to the state board of education information required for obtaining and maintaining program approval.

(2) Coordinate the process established for the candidate's demonstration of required knowledge and skills.

(3) Establish procedures for providing the candidate with documentation of the successful demonstration of the required knowledge and skills.

(4) Establish a process to counsel the candidate's application process for certification.

(5) Coordinate management of operations and resources for the preparation program.

[06-02-051, recodified as § 181-77A-040, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77A-040, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77A-040, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-040, filed 2/5/97, effective 3/8/97.]

WAC 181-77A-057 Approval of a career and technical education teacher preparation program based on business and industry work experience offered by an out-of-state provider within the state applicable to certification. No out-of-state provider shall offer a program of courses within Washington state for purposes of Washington state career and technical education teacher certification based on business and industry work experience without meeting all program approval requirements set forth in this chapter.

[06-02-051, recodified as § 181-77A-057, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77A-057, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77A-057, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-057, filed 2/5/97, effective 3/8/97.]

WAC 181-77A-080 Substitute pay for members of program advisory committees. Service on program advisory

sory committees by certificated employees is deemed by the state board of education as a committee formed for the purpose of furthering education within the state; and, the superintendent of public instruction, in conformance with the provisions of RCW 28A.300.035, shall make payments to school districts for needed substitutes.

[06-02-051, recodified as § 181-77A-080, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-12-014, § 180-77A-080, filed 5/21/99, effective 6/21/99.]

WAC 181-77A-165 General standards for all career and technical education teacher certification based on business and industry work experience. All candidates shall demonstrate competence in the following standards:

(1) State learning goals—The teacher is able to apply and integrate the state's learning goals and essential academic learning requirements in program implementation and assessment.

(2) Learning environments—The teacher is able to create and sustain safe learning environments which prepare diverse students for the workplace, advanced training, and continued education.

(3) Student characteristics and related instructional strategies—The teacher is able to identify the diverse needs of students and implement programs and strategies which promote student competency development and success.

(4) Personal and professional attributes—The teacher models personal and professional attributes and leadership skills which reflect productive life and work roles.

(5) Partnerships—The teacher implements and maintains collaborative partnerships with students, colleagues, community, business, industry, and families, which maximize resources and promote student self-sufficiency.

(6) Law—The teacher understands school law and educational policy.

(7) Issues of abuse—The teacher understands issues related to abuse including the identification of physical, emotional, sexual, and substance abuse, information on the impact of abuse on the behavior and learning abilities of students, discussion of the responsibilities of a teacher to report abuse or provide assistance to students who are the victims of abuse, and methods for teaching students about abuse of all types and their prevention.

[06-02-051, recodified as § 181-77A-165, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77A-165, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77A-165, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-165, filed 2/5/97, effective 3/8/97.]

WAC 181-77A-175 Work experience program standards. Individuals obtaining certification on the basis of business and industry work experience in the major categories of trade and industrial, health occupation, or any of the subcategories approved by the state board of education for WAC 180-77-005 [181-77-005] shall be assessed on the basis of the requirements pursuant to WAC 180-77-041 [181-77-041] and 180-77A-165 [181-77A-165].

[06-02-051, recodified as § 181-77A-175, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-175, filed 2/5/97, effective 3/8/97.]

[2006 WAC Supp—page 326]

WAC 181-77A-180 Career and technical education teacher preparation specialty standards. In addition to the standards identified in WAC 182-82-332 or 180-77A-175 [180-77A-175], individuals obtaining certification in the areas of coordinator of work-based learning or diversified occupations must demonstrate competency in the following standards.

(1) Coordinator of work-based learning.

(a) The work-based learning coordinator demonstrates the knowledge and ability to develop, implement, manage, and evaluate a diversified work-based learning program that utilizes local resources.

(b) The work-based learning coordinator models ethical behavior and demonstrates the ability to facilitate, supervise, and evaluate student leadership activities.

(c) The work-based learning coordinator demonstrates the ability to team with career and technical education teachers and prospective employers to relate work-based learning with school-based learning and to measure student performance.

(d) The work-based learning coordinator demonstrates a commitment to professional development.

(e) The work-based learning coordinator demonstrates a current knowledge of the essential academic learning requirements and skills for entry level workers and uses a variety of methods to insure that students master the essential academic learning requirements.

(2) Diversified occupations.

(a) The diversified occupations teacher demonstrates competency in the areas of career exploration, employment acquisition, job retention, resource management (personal, community, workplace technology, consumerism), economic systems (entrepreneurship, economics), basis skills development, and leadership development.

(b) The diversified occupations teacher demonstrates the ability to link classroom learning with the world of work and coordinate work-based learning which prepares students for the world of work.

[06-02-051, recodified as § 181-77A-180, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77A-180, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77A-180, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-180, filed 2/5/97, effective 3/8/97.]

WAC 181-77A-195 Course work/internship waiver.

The provider of approved career and technical education teacher programs based on business and industry work experience may waive required course work and/or waive or reduce in length the required internship for any candidate, based on an individual review if the college or university or approved provider determines that previous course work, work experiences, or alternative learning experiences have or will provide the candidate knowledge and skills to be otherwise gained from the required course work or internship.

[06-02-051, recodified as § 181-77A-195, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-77A-195, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-77A-195, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 97-04-087, § 180-77A-195, filed 2/5/97, effective 3/8/97.]

Chapter 181-78A WAC

APPROVAL STANDARDS FOR PERFORMANCE-BASED PREPARATION PROGRAMS FOR TEACHERS, ADMINISTRATORS, AND EDUCATIONAL STAFF ASSOCIATES

ity to participate—Pilot program requirements—
Assignment of teachers—Reports.

WAC

181-78A-003	Authority.
181-78A-005	Purpose.
181-78A-007	Minimum state standards.
181-78A-010	Definition of terms.
181-78A-025	Program approval.
181-78A-100	Existing approved programs.
181-78A-105	Procedures for initial approval of an educator preparation program.
181-78A-110	Length of time for which program approval status shall be granted.
181-78A-115	Probationary status.
181-78A-120	Procedures for reestablishment of approval status for an educator preparation program.
181-78A-130	Approval of preparation program offered by an out-of-state college or university within the state applicable to certification.
181-78A-136	Responsibilities of deans, directors, or other designated administrators.
181-78A-151	Preparation of superintendents.
181-78A-200	Basic skills.
181-78A-205	Required professional education advisory board.
181-78A-207	Qualification to be appointed to professional education advisory boards.
181-78A-209	Professional education advisory boards—Membership.
181-78A-210	Joint professional education advisory board.
181-78A-215	Substitute pay for members of professional education advisory boards.
181-78A-220	Program approval standards for approved preparation programs.
181-78A-225	Acceptance of alternative standards.
181-78A-250	Approval standard—Professional education advisory board.
181-78A-255	Approval standard—Accountability.
181-78A-261	Approval standard—Unit governance and resources.
181-78A-264	Approval standard—Program design.
181-78A-270	Approval standard—Knowledge and skills.
181-78A-272	Approval of residency certificate preparation programs for principals/program administrators, school psychologists, school counselors and school social workers.
181-78A-307	Course work/internship waiver.
181-78A-308	Special consideration for certain former para-educators.
181-78A-310	Program approval—Teachers, collaboration with K-12 schools.
181-78A-315	Program approval requirement—Field experience for school counselors.
181-78A-317	Program approval requirement—Field experience for school psychologists.
181-78A-319	Program approval requirement—Field experience for school social workers.
181-78A-325	Program approval requirement—Field experience for all administrators.
181-78A-330	Demographic information.
181-78A-400	Internship standards—State-funded administrator interns.
181-78A-500	Professional certificate program approval.
181-78A-505	Overview—Teacher professional certificate program.
181-78A-507	Overview—Principal/program administrator professional certificate programs.
181-78A-509	Overview—Educational staff associate—School counselor/school psychologist/school social worker professional certificate programs.
181-78A-510	Responsibilities of the professional certificate administrator.
181-78A-515	Program approval standards for professional certificate approved programs.
181-78A-520	Approval standard—Professional education advisory board.
181-78A-525	Approval standard—Accountability.
181-78A-530	Approval standard—Resources.
181-78A-535	Approval standard—Program design.
181-78A-540	Approval standard—Knowledge and skills.
181-78A-700	First peoples' language/culture certification pilot program—Findings, purposes and intent—Definitions—Pilot program established—Tribal eligibility

WAC 181-78A-003 Authority. The authority for this chapter is RCW 28A.305.130 (1) through (4) which authorizes the state board of education to approve and disapprove educator preparation programs in institutions of higher education in Washington state.

[06-02-051, recodified as § 181-78A-003, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-003, filed 12/23/98, effective 1/23/99. Statutory Authority: RCW 28A.305.130. 97-04-084, § 180-78A-003, filed 2/5/97, effective 3/8/97.]

WAC 181-78A-005 Purpose. In order to support the successful implementation of Washington's ongoing public school reform and improvement policies, the state board of education is establishing a performance-based preparation system for educators. The intent of the performance-based preparation system is to ensure that educators can demonstrate a positive impact on student learning as the foundation for preparing students to participate effectively in a diverse and democratic society. This chapter establishes the procedures, standards, and criteria to be used in the development and approval of preparation programs offered by institutions of higher education in Washington state leading to teacher, administrator, and educational staff associates certification. These rules establish a performance-based preparation system for educators that supports the Improvement of Student Achievement Act of 1993 (ESHB 1209) which will enable educators to implement the Washington state student learning goals and essential academic learning requirements.

[06-02-051, recodified as § 181-78A-005, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-23-023, § 180-78A-005, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-005, filed 12/23/98, effective 1/23/99. Statutory Authority: RCW 28A.305.130. 97-04-084, § 180-78A-005, filed 2/5/97, effective 3/8/97.]

WAC 181-78A-007 Minimum state standards. All state standards prescribed in this chapter for the approval of professional preparation programs are minimal standards for state approval. Where allowed colleges or universities may and are encouraged to develop program standards which exceed the minimums herein prescribed.

[06-02-051, recodified as § 181-78A-007, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130. 97-04-084, § 180-78A-007, filed 2/5/97, effective 3/8/97.]

WAC 181-78A-010 Definition of terms. The following definitions shall be used in this chapter:

(1) "College or university" means any regionally accredited baccalaureate degree granting Washington institution of higher learning or cooperative group of such institutions which has or develops programs of preparation in education which are submitted to the state board of education for approval.

(2) "Endorsement" means a specification placed on a certificate to indicate the subject area, grade level, and/or specialization for which the individual is prepared to teach.

(3) "Interstate compact" means the contractual agreement among several states authorized by RCW 28A.690.010 and 28A.690.020 which facilitates interstate reciprocity.

(4) "Program approval" means the approval by the state board of education of an educator preparation program within Washington state.

(5) "Field experience" means a sequence of learning experiences which occur in actual school settings or clinical or laboratory settings. Such learning experiences are related to specific program outcomes and are designed to integrate educational theory, knowledge, and skills in actual practice under the direction of a qualified supervisor.

(6) "Regionally accredited institution of higher education" means a community college, college, or university which is a candidate for accreditation or is accredited by one of the following regional accrediting bodies:

- (a) Middle States, Association of Colleges and Schools;
- (b) New England Association of Schools and Colleges;
- (c) North Central Association of Colleges and Schools;
- (d) Northwest Association of Schools and of Colleges and Universities;
- (e) Southern Association of Colleges and Schools;
- (f) Western Association of Schools and Colleges; Accrediting Commission for Junior and Senior Colleges.

(7) "An approved performance-based educator preparation program" means a program that requires the candidate to demonstrate in multiple ways, over time, specific state board of education required standards, criteria, knowledge and skills, including, where appropriate, evidence related to positive impact on student learning.

(8) "A positive impact on student learning" means that a teacher through instruction and assessment has been able to document students' increased knowledge and/or demonstration of a skill or skills related to the state goals and/or essential academic learning requirements: Provided, That teachers employed by private schools who are candidates for the professional teaching certificate shall document students' increased knowledge and/or demonstration of a skill or skills related to either:

(a) The state goals or essential academic learning requirements; or

(b) Such alternative learning goals as the private school has established.

(9) "Collaboration" (as used in WAC 180-78A-500 [181-78A-500] through 180-78A-540 [181-78A-540]) means ongoing communication among the professional growth team members using a variety of formats (e.g., conferences, electronic mail, conference calls, etc.) to reach consensus regarding the content - course work, experiences, competencies, knowledges and skills - of the candidate's professional growth plan.

(10) "Professional growth team."

(a) Teacher "professional growth team" means a team comprised of the candidate for professional certification, a colleague specified by the candidate, a college or university advisor appointed by the college or university, and a representative from the school district in which the candidate teaches.

(b) Principal/program administrator "professional growth team," for the purpose of professional certification, means a team comprised of the candidate for the professional

certificate, a district representative or designee, a professional association representative, and a college or university advisor. "Professional growth team," for the purpose of renewal of the professional certificate, means a team comprised of the individual renewing the certificate and the superintendent, or superintendent designee or appointed representative.

(c) School counselor, school psychologist, and school social worker "professional growth team" for the purpose of professional certification, means a team comprised of the candidate for the professional certificate, a college/university representative, and a colleague/peer specified by the candidate.

(11) "Individual professional growth plan" means the document which identifies the specific competencies, knowledges, skills and experiences needed to meet the standards set forth in WAC 180-78A-540 [181-78A-540]. The individual professional growth plan shall meet requirements set forth in WAC 180-78A-535 [181-78A-535] (4)(a).

(12) "Preassessment seminar" means that component of the approved professional certificate program in which the candidate for a professional certificate, in collaboration with members of his/her professional growth team, identifies specific competencies, knowledges, skills and/or experiences needed to meet standards for the certificate as required by WAC 180-78A-540 [181-78A-540]. The preassessment seminar shall meet requirements set forth in WAC 180-78A-535 [181-78A-535] (4)(a).

(13) "Culminating seminar" means that component of the approved professional certificate program in which the candidate for a professional certificate presents his/her final documentation and evidence of professional certificate level knowledge, skill and performance, and positive impact on student learning. The culminating seminar shall meet requirements set forth in WAC 180-78A-535 [181-78A-535] (4)(e).

[06-02-051, recodified as § 181-78A-010, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.401.010 [28A.410.010]. 04-21-038, § 180-78A-010, filed 10/15/04, effective 11/15/04. Statutory Authority: RCW 28A.305.130 and 28A.410.010. 02-18-037, § 180-78A-010, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 01-19-080, § 180-78A-010, filed 9/19/01, effective 10/20/01; 00-03-049, § 180-78A-010, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-010, filed 12/23/98, effective 1/23/99. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 98-01-025, § 180-78A-010, filed 12/8/97, effective 1/8/98. Statutory Authority: RCW 28A.305.130. 97-04-084, § 180-78A-010, filed 2/5/97, effective 3/8/97.]

WAC 181-78A-025 Program approval. All programs leading to certification offered in Washington state to prepare teachers, principals, program administrators, superintendents, school counselors, school psychologists, and school social workers shall be approved pursuant to the requirements of this chapter.

[06-02-051, recodified as § 181-78A-025, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130. 97-04-084, § 180-78A-025, filed 2/5/97, effective 3/8/97.]

WAC 181-78A-100 Existing approved programs. Chapter 180-78A [181-78A] WAC rules shall govern all policies related to programs upon adoption by the state board of education, which shall provide assistance to colleges and universities in the revision of their existing programs.

(1) All professional education programs shall be reviewed for approval under the 1997 program approval standards of chapter 180-78A [181-78A] WAC by August 31, 2000. Colleges and universities may permit individuals accepted into teacher preparation programs on or before August 31, 2000, to obtain certification by meeting requirements of programs approved under approval standards described in chapter 180-78 [181-78] WAC if the individuals complete the program on or before August 31, 2003, and the college or university verifies program completion to the superintendent of public instruction on or before December 31, 2003: Provided, That the state board of education or its designee may waive this deadline on a case-by-case basis.

(2) All principal/program administrator programs shall be reviewed for approval under the 2002 program approval standards of chapter 180-78A [181-78A] WAC by August 31, 2004. Colleges and universities may permit individuals accepted into principal/program administrator programs on or before August 31, 2004, to obtain a residency certificate by meeting requirements of programs approved under 1997 approval standards described in chapter 180-78A [181-78A] WAC if the individuals complete the program on or before August 31, 2006, and the college or university verifies program completion to the superintendent of public instruction on or before December 31, 2006. Provided, That the state board of education or its designee may waive this deadline on a case-by-case basis.

(3) All school counselor, school psychologist, or school social worker programs shall be approved under the 2004 program approval standards of chapter 180-78A [181-78A] WAC by August 31, 2005. Colleges and universities may permit individuals accepted into the school counselor, school psychologist, or school social worker programs on or before August 31, 2005, to obtain a residency certificate by meeting requirements of programs approved under the 1997 approval standards described in chapter 180-78A [181-78A] WAC if the individuals complete the program on or before August 31, 2007, and the college or university verifies program completion to the superintendent of public instruction on or before December 31, 2007. Provided that the state board of education or its designee may waive this deadline on a case-by-case basis.

(4) Individuals who completed a principal/program administrator program on or before August 31, 2004, shall be granted an initial certificate if the preparing college or university verifies completion by December 31, 2004. Individuals who complete an educational staff associate program on or before August 31, 2005, shall be granted an initial certificate if the preparing college or university verifies completion by December 31, 2005.

(5) Institutions shall be given at least one year notification prior to a state board of education review for compliance with these standards: Provided, That if an institution requests a visit with less than a year's notice, the state board of education shall consider that request.

(6) The state board of education shall determine the schedule for such approval reviews and whether an on-site visit or other forms of documentation and validation shall be used for the purposes of granting approval under the 1997 program approval standards. In determining the schedule for site visits, the board shall take into consideration the partner-

ship agreement between the state and the National Council for the Accreditation of Teacher Education (NCATE) as such agreement relates to the NCATE accreditation cycle and allow NCATE accredited colleges/universities to follow the NCATE schedule for their state site visit. Non-NCATE accredited colleges/universities shall have a state approval site visit every five years. The state board of education may require more frequent site visits at their discretion pursuant to WAC 180-78A-110(2) [181-78A-110(2)].

(7) Each institution shall submit its program for review when requested by the state board of education to ensure that the program meets the state's program approval standards and to provide assessment data relative to the performance standards to the state board of education for the year prior to the site visit.

(8) Institutions seeking National Council for the Accreditation of Teacher Education, Council for Accreditation of Counseling and Related Education Programs, and National Association of School Psychologist accreditation may request from the state board of education approval for concurrent site visits which would utilize the same documentation with the exception of material submitted by the institution to the state for the professional education advisory boards and the accountability standards.

(9) In submitting a request for approval under these standards, the approved program shall provide a description of the criteria that the program will use to assess, in multiple ways, over time, its certification candidates' knowledge and skills, including, where appropriate, evidence related to positive impact on student learning. Based on the documentation submitted and/or an on-site visit, the state board of education shall grant approval or request specific revisions that need to be made in order to obtain state board of education approval.

[06-02-051, recodified as § 181-78A-100, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 05-15-052, § 180-78A-100, filed 7/12/05, effective 8/12/05; 05-04-056, § 180-78A-100, filed 1/28/05, effective 2/28/05; 04-21-038, § 180-78A-100, filed 10/15/04, effective 11/15/04. Statutory Authority: RCW 28A.305.130 and 28A.410.010, 04-04-090, § 180-78A-100, filed 2/3/04, effective 3/5/04; 02-18-037, § 180-78A-100, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 00-09-049, § 180-78A-100, filed 4/14/00, effective 5/15/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-01-174, § 180-78A-100, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-105 Procedures for initial approval of an educator preparation program. Each college or university desiring to establish a preparation program shall comply with the following:

(1) Advise the state board of education of its desire to establish a preparation program.

(2) Establish the appropriate professional education advisory board pursuant to WAC 180-78A-205 [181-78A-205].

(3) Develop with the assistance of the professional education advisory board and designated officials of the state board of education, a written plan which provides timelines for the implementation of all applicable program approval standards during the first year of the preparation program and submit such report to the designated official of the state board of education for review and comment and, if requested, resubmit such plan to the designated official.

(4) Describe the criteria that the approved preparation program will use to assess, in multiple ways, over time, its candidates' knowledge and skills, including, where appropriate, evidence related to positive impact on student learning.

(5) Present the written plan to the state board of education which shall approve it and grant initial approval status if the state board is satisfied that the college or university will meet all program approval standards in accordance with reasonable and practical timelines and that the college or university has made the needed commitments, specifically personnel and other resources, to implement the plan.

(6) The newly approved preparation program shall be approved for up to a two-year period.

(7) During the second year of approval, the superintendent of public instruction shall conduct a site visit to determine if the program is in full compliance with the 1997 program approval standards.

[06-02-051, recodified as § 181-78A-105, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-105, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-110 Length of time for which program approval status shall be granted. (1) The state board of education shall approve all preparation programs under the 1997 program approval standards for five years unless the state board approves a variation with the exception of new programs approved for up to two years under WAC 180-78A-105 [181-78A-105].

(2) The superintendent of public instruction, upon receipt of a complaint from any source or upon her or his initiative, or initiative of the state board may review all or any part of a preparation program for compliance with the provisions of this chapter. If deviations are found, the state board is authorized to rescind program approval until the college or university submits an acceptable compliance agreement which will bring the preparation program into compliance as soon as reasonably practicable, but no later than the commencement of the succeeding academic year or six calendar months, whichever is later.

(3) If an acceptable compliance agreement is not developed and approved by the state board of education, the preparation program shall be placed on probationary status and the probationary status provision of WAC 180-78A-115 [181-78A-115] shall apply.

[06-02-051, recodified as § 181-78A-110, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-23-023, § 180-78A-110, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-110, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-115 Probationary status. Colleges and universities with approved preparation programs shall not lose official approval status until the state board of education has taken final action to disapprove the preparation program: Provided, That colleges or universities shall be permitted for the current and one additional academic year following receipt of the formal notice of disapproval to continue as an approved preparation program on probationary status for the purpose of completing the preparation program for those candidates for certification currently enrolled in the preparation program and who are scheduled to complete such preparation

program within such academic years and for the purpose of regaining state board of education approval.

[06-02-051, recodified as § 181-78A-115, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-115, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-120 Procedures for reestablishment of approval status for an educator preparation program.

The procedures for the reestablishment of state board of education approval of a preparation program shall be the same as the procedure for initial approval as provided in WAC 180-78A-105 [181-78A-105], except that if the preparation program continues to operate pursuant to the probationary status provision of WAC 180-78A-115 [181-78A-115], the state board of education may limit the content of the written plan required by WAC 180-78A-105(3) [181-78A-105(3)] to program standards determined by the state board of education to be the cause of the college or university's probationary status.

[06-02-051, recodified as § 181-78A-120, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-120, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-130 Approval of preparation program offered by an out-of-state college or university within the state applicable to certification.

No out-of-state college or university shall offer a program of courses within Washington state for purposes of Washington state certification without meeting all program approval requirements set forth in this chapter and those set forth in the Degree Authorization Act, chapter 28B.85 RCW.

[06-02-051, recodified as § 181-78A-130, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-130, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-136 Responsibilities of deans, directors, or other designated administrators. Each college or university operating an approved preparation program shall require the dean, director, or other designee of the administrative unit required by WAC 180-78A-261(2) [181-78A-261(2)] to coordinate the following college or university responsibilities:

(1) Formation of professional education advisory boards.
(2) Management of operations and resources for each preparation program.

(3) Filing of affidavits and reports required by this chapter and chapter 180-79A [181-79A] WAC.

(4) Dissemination of information relative to initial and continuing certification procedures and requirements.

(5) The application process for certification.

(6) Establishing and administering a process to counsel and assist applicants in the processing of applications for certificates and endorsements thereon: Provided, That colleges and universities need not provide such assistance to applicants who have completed less than 15 quarter (10 semester) hours of coursework at the respective college or university.

[06-02-051, recodified as § 181-78A-136, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-136, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-151 Preparation of superintendents. See RCW 28B.10.410 and 28A.400.010.

[06-02-051, recodified as § 181-78A-151, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-151, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-200 Basic skills. See RCW 28A.410.220.

[06-02-051, recodified as § 181-78A-200, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 and 28A.410.010. 02-18-037, § 180-78A-200, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-200, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-205 Required professional education advisory board. Colleges and universities seeking approval by the state board of education as an approved preparation program, and in order to maintain such approval status, shall establish a professional education advisory board (PEAB) in accordance with the following:

(1) The program areas for which a college or university may seek approval and maintain an approved preparation program are:

- (a) Teacher.
- (b) Administrator.
- (c) Educational staff associate (ESA), school counselor.
- (d) Educational staff associate, school psychologist.
- (e) Educational staff associate, school social worker.

(2) A college or university may combine educational staff associate professional education advisory boards as long as one-half or more of the voting members are appointed by the associations representing the ESA roles involved and are divided equally among those roles.

(3) A college or university may have separate administrator professional education advisory boards for each administrator role as long as one-half or more of the voting members are appointed by the association representing the administrator role involved: Provided, That each administrator PEAB shall include at least one member appointed by the association of Washington school principals (AWSP) and one appointed by the Washington association of school administrators (WASA).

(4) The failure of a designated organization, as specified in WAC 180-78A-209 [181-78A-209], to make appointments to the designated board, or to make such appointments in a timely manner, shall not cause the preparation program to lose its approval status.

[06-02-051, recodified as § 181-78A-205, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-205, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-207 Qualification to be appointed to professional education advisory boards. (1) Appointees to service on professional education advisory boards from required agencies, other than the designee(s) of the college or university president, at the time of their appointment, must be employed in or reside in a school district with which the college or university has a current written agreement to provide field experiences for students involved in the preparation pro-

gram for which the professional education advisory board has responsibility.

(2) Professional education advisory boards may authorize the appointment of additional representatives from other school districts or other public and private agencies as long as one-half or more of the members of the professional education advisory board consist of representatives who meet the qualifications of subsection (1) of this section and who are from the role for which the professional education advisory board has responsibility.

(3) If any professional education advisory board receives a written request from other school districts or other public or private agencies for representation on such professional education advisory board, the current members of such professional education advisory board shall vote on such request at the next regular meeting of such board: Provided, That a college or university may elect to add private school representatives to a professional education advisory board without adding to the representation from the role for which the professional education advisory board has responsibility if the professional education advisory board authorizes such action by a majority vote.

[06-02-051, recodified as § 181-78A-207, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-207, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-209 Professional education advisory boards—Membership. The professional education advisory boards shall at a minimum consist of the following:

(1) TEACHER.

(a) One-half or more of the voting members shall be classroom teachers. All, but one, will be appointed by the president of the Washington Education Association. One of these teachers shall be employed in a private school and appointed by the Washington Federation of Independent Schools.

(b) At least one principal appointed by the president of the Association of Washington School Principals.

(c) At least one school administrator appointed by the Washington Association of School Administrators.

(d) At least one college or university representative who may serve in a voting or nonvoting role.

(e) At colleges or universities where career and technical education programs are offered, one career and technical education director or career and technical education teacher, with expertise in one of the approved career and technical education programs at the college or university, appointed by the Washington Association of Vocational Administrators in cooperation with the college or university.

(2) ADMINISTRATOR.

(a) One-half or more of the voting members shall be administrators. One-half of these administrators (at least one-fourth of the total voting membership) shall be appointed by the president of the Washington Association of School Administrators. All but one of the remaining administrators shall be appointed by the president of the Association of Washington School Principals. The remaining administrator shall be employed in an approved private school and appointed by the Washington Federation of Independent Schools.

(b) At least one or more classroom teachers appointed by the president of the Washington Education Association.

(c) At least one college or university representative who may serve in a voting or nonvoting role.

(3) **SCHOOL COUNSELOR.**

(a) At least one-half of the voting members shall be school counselors appointed by the president of the Washington School Counselors Association.

(b) At least one teacher appointed by the president of the Washington Education Association.

(c) At least one principal appointed by the Association of Washington School Principals.

(d) At least one administrator appointed by the Washington Association of School Administrators.

(e) At least one college or university representative who may serve in a voting or nonvoting role.

(4) **SCHOOL PSYCHOLOGIST.**

(a) At least one-half of the voting members shall be school psychologists appointed by the president of the Washington State Association of School Psychologists.

(b) At least one teacher appointed by the president of the Washington Education Association.

(c) At least one principal appointed by the Association of Washington School Principals.

(d) At least one administrator appointed by the Washington Association of School Administrators.

(e) At least one college or university representative who may serve in a voting or nonvoting role.

(5) **SCHOOL SOCIAL WORKER.**

(a) At least one-half of the voting members shall be school social workers appointed by the president of the Washington Association of School Social Workers.

(b) At least one teacher appointed by the president of the Washington Education Association.

(c) At least one principal appointed by the Association of Washington School Principals.

(d) At least one administrator appointed by the Washington Association of School Administrators.

(e) At least one college or university representative who may serve in a voting or nonvoting role.

[06-02-051, recodified as § 181-78A-209, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-78A-209, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2). 01-03-151, § 180-78A-209, filed 1/24/01, effective 2/24/01; 00-09-046, § 180-78A-209, filed 4/14/00, effective 5/15/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-209, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-210 Joint professional education advisory board. Any two or more colleges and/or universities may agree to have the same professional education advisory board for their respective preparation program at such college or university.

[06-02-051, recodified as § 181-78A-210, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-210, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-215 Substitute pay for members of professional education advisory boards. Service on professional education advisory boards by certificated employees is

[2006 WAC Supp—page 332]

deemed by the state board of education as a committee formed for the purpose of furthering education within the state. Accordingly, the superintendent of public instruction, in conformance with the provisions of RCW 28A.300.035, shall make payments to school districts for needed substitutes.

[06-02-051, recodified as § 181-78A-215, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-215, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-220 Program approval standards for approved preparation programs. The program approval standards for approved preparation programs for teachers, administrators, and educational staff associates are as follows:

(1) **Professional education advisory boards:** The college or university, in compliance with the provisions of WAC 180-78A-250 [181-78A-250], has established and maintained a professional education advisory board to participate in and cooperate with the college or university on decisions related to the development, implementation, and revision of each preparation program—i.e., teacher, administrator, school counselor, school psychologist, and school social workers.

(2) **Accountability:** Each college or university, in compliance with the provision of WAC 180-78A-255 [181-78A-255], has established a performance-based preparation program.

(3) **Unit governance and resources:** A separate college, school, department, or other administrative unit within the college or university, in compliance with the provision of WAC 180-78A-261 [181-78A-261], is responsible for providing the resources needed to develop and maintain quality preparation programs.

(4) **Program design:** Each college or university, in compliance with the provision of WAC 180-78A-264 [181-78A-264], is responsible for establishing a collaboratively developed approved preparation program that is based on a conceptual framework, current research and best practice that reflects the state's learning goals and essential academic learning requirements.

(5) **Knowledge and skills:** Each college or university, in compliance with the provision of WAC 180-78A-270 [181-78A-270], has established policies requiring all candidates for certification to know and demonstrate the content, pedagogical, and professional knowledge and skills required for the particular certificate and areas of endorsement, which reflect the state's learning goals and essential academic learning requirements, and are necessary to help all students learn.

[06-02-051, recodified as § 181-78A-220, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) through (4). 02-04-014, § 180-78A-220, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-23-023, § 180-78A-220, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-220, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-225 Acceptance of alternative standards. (1) For a given program, the state board of education may allow the substitution of the Council for Accreditation of Counseling and Related Education Program's (CACREP) or

the National Association of School Psychologist's (NASP) standards for program approval standards for school counselor and school psychologist program approval (WAC 180-78A-220 [181-78A-220] (2) through (5)).

(2) The state board of education may allow the substitution of national standards (e.g., the National Council for Accreditation of Teacher Education (NCATE) teacher education standards) for program approval with any additions deemed necessary by the state board of education. National standards may also be approved for programs in specific endorsement areas if they are deemed to be equivalent to state standards.

[06-02-051, recodified as § 181-78A-225, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-225, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-250 Approval standard—Professional education advisory board. Building on the mission to prepare educators who demonstrate a positive impact on student learning, the following evidence shall be evaluated to determine whether each preparation program is in compliance with the program approval standards of WAC 180-78A-220(1) [181-78A-220(1)]:

(1) The professional education advisory board has been established in accordance with WAC 180-78A-209 [181-78A-209].

(2) The professional education advisory board has adopted operating procedures and has met at least four times a year.

(3) The professional education advisory board has reviewed all program approval standards at least once every five years.

(4) The professional education advisory board annually has reviewed follow-up studies, placement records, and summaries of performance on the pedagogy assessment for teacher candidates.

(5) The professional education advisory board has made recommendations when appropriate for program changes to the institution which must in turn consider and respond to the recommendations in writing in a timely fashion.

(6) The professional education advisory board annually has seen, reviewed and approved an executive summary of the activities of the professional education advisory board. The college or university has submitted the approved executive summary to the state board of education.

(7) The professional education advisory board for administrator preparation programs participated in the candidate selection process for principal preparation programs.

[06-02-051, recodified as § 181-78A-250, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 03-19-020, § 180-78A-250, filed 9/5/03, effective 10/6/03. Statutory Authority: RCW 28A.305.130 and 28A.410.010. 02-18-037, § 180-78A-250, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.305.130 (1) through (4). 01-13-106, § 180-78A-250, filed 6/20/01, effective 7/21/01. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-250, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-255 Approval standard—Accountability. Building on the mission to prepare educators who demonstrate a positive impact on student learning, the following evidence shall be evaluated to determine whether

each preparation program is in compliance with the program approval standards of WAC 180-78A-220(2) [181-78A-220(2)]. Each college and university shall:

(1) Submit for approval to the state board of education a performance-based program for the preparation of teachers, administrators, and educational staff associates that identifies:

(a) A comprehensive set of learner expectations for each preparation program;

(b) An assessment system that reflects the conceptual framework(s) and state standards, and collects and analyzes data on applicant qualifications, candidate and graduate performance, unit operations and program quality;

(c) Explicit connections between professional, state, and institutional standards, and candidate assessments.

(2) During the first year following program completion, solicit feedback from program completers employed in education, and their supervisors, regarding the program's effectiveness.

(3) Maintain placement records for all program completers during the first year following program completion.

(4) Submit an annual report to the state board of education for each approved program to include:

(a) An executive summary of the activities of each professional education advisory board, including membership, meeting attendance, meeting expenditure information, PEAB recommendations, and program responses to the recommendations.

(b) The number of students completing each approved program during the period from September 1 - August 31 of the previous year.

(c) Other information related to the preparation programs requested by the state board of education.

(5) Collect and maintain exemplar candidate work samples that document a positive impact on student learning.

[06-02-051, recodified as § 181-78A-255, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) through (4). 02-04-014, § 180-78A-255, filed 1/24/02, effective 2/24/02; 01-13-106, § 180-78A-255, filed 6/20/01, effective 7/21/01. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-255, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-261 Approval standard—Unit governance and resources. Building on the mission to prepare educators who demonstrate a positive impact on student learning, the unit has the leadership, authority, budget, personnel, facilities, and resources, including information technology resources, for the preparation of candidates to meet state standards. The following evidence shall be evaluated to determine whether each preparation program is in compliance with the resources program approval standard of WAC 180-78A-220(3) [181-78A-220(3)]:

(1) A separate administrative unit supports the preparation program whose composition and organization are clearly described in writing.

(2) An officially designated administrator is responsible for the management of operations and resources for the preparation program.

(3) Faculty are qualified and model best professional practices in scholarship, service, and teaching including the

assessment of their own effectiveness as related to candidate performance.

(4) The institution has and implements an explicit plan to ensure that candidates interact with higher education faculty, school faculty, other candidates and P-12 students representing diverse populations.

(5) The unit provides a mechanism and facilitates collaboration between unit faculty and faculty in other units of the institution involved in the preparation of educators.

(6) The unit receives sufficient budgetary allocations at least proportional to other institutional units.

(7) Workload policies allow faculty members to be actively engaged in teaching, scholarship, assessment, advisement, collaborative work with P-12 schools, and service.

(8) Specific staff and/or faculty members in the unit are assigned the responsibility of advising applicants for certification and endorsements and for maintaining certification records.

(9) The unit has adequate facilities to support candidates in meeting standards.

(10) The unit has adequate information technology resources, library, and curricular resources, and electronic information to support faculty and candidates.

(11) The unit systematically evaluates faculty performance and facilitates professional development.

(12) Faculty regularly and systematically collaborate with colleagues in P-12 settings, faculty in other college or university units, and members of the broader professional community to improve teaching, candidate learning, and the preparation of educators.

[06-02-051, recodified as § 181-78A-261, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) through (4), 02-04-014, § 180-78A-261, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-01-174, § 180-78A-261, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-264 Approval standard—Program design. Building on the mission to prepare educators who demonstrate a positive impact on student learning, the following evidence shall be evaluated to determine whether each preparation program is in compliance with the program design standard of WAC 180-78A-220(4) [181-78A-220(4)]:

(1) The conceptual framework establishes the shared vision for the unit's efforts in preparing educators to work effectively in P-12 schools. It provides the basis for coherence among curriculum, instruction, field experiences, clinical practice, assessment, and evaluation. The conceptual framework is based on current research and best practice, is cohesive and integrated, supports the state's student learning goals and for teacher preparation programs, and reflects the essential academic learning requirements. The conceptual framework reflects the unit's commitment to preparing candidates to support learning for all students and the unit's commitment to preparing candidates who are able to use educational technology to help all students learn.

(2) Candidates who demonstrate potential for acquiring the content and pedagogical knowledge and skills for success as educators in schools are recruited, admitted, and retained (see WAC 180-78A-200 [181-78A-200] Candidate admis-

sion policies). These candidates include members from under represented groups.

(3) Programs shall assure that candidates are provided with opportunities to learn the pedagogical and professional knowledge and skills required for the particular certificate, and for teacher preparation programs, the competencies for endorsement areas.

(4) A set of learner expectations for program completion are identified and published.

(5)(a) The unit and its school partners design, implement, and evaluate field experiences and clinical practices so that candidates develop and demonstrate the knowledge and skills necessary to help all students learn. Provided, That candidates for an administrator certificate shall complete an internship pursuant to WAC 180-78A-325 [181-78A-325], candidates for a school psychologist certificate shall complete an internship pursuant to WAC 180-78A-317 [181-78A-317], and candidates for a school counselor certificate shall complete an internship pursuant to WAC 180-78A-315 [181-78A-315], and candidates for a school social worker certificate shall complete an internship pursuant to WAC 180-78A-319 [181-78A-319].

(b) Field experiences are integrated throughout the preparation program and occur in settings with students representing diverse populations.

(c) Clinical practice is sufficiently extensive and intensive for candidates to demonstrate competence in the professional roles for which they are preparing.

(6) The preparing institution shall assure that candidates are provided with appropriate course work and experiences in teaching methods for each endorsement area. The methods should include:

(a) Instructional strategies.

(b) Curriculum frameworks (essential academic learning requirements).

(c) Assessment strategies, including performance-based measurements of student work.

(d) Unit/lesson planning.

(7) Entry and exit criteria exist for candidates in clinical practice.

(8) Programs reflect ongoing collaboration with P-12 schools.

(9) Candidates for a teacher certificate shall hold/obtain a baccalaureate degree from a regionally accredited college or university pursuant to WAC 180-79A-030(5) [181-79A-030(5)].

(10) Beginning fall 2003, approved programs shall administer the pedagogy assessment adopted by the state board of education and published by the superintendent of public instruction to all candidates in a residency certificate program.

Candidates must take the pedagogy assessment as a condition of residency program completion. However, passage is not required for program completion as long as the program can provide other evidence, separately or in combination with the results of the pedagogy assessment, that the candidate has satisfied all program completion requirements.

[06-02-051, recodified as § 181-78A-264, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 05-23-040, § 180-78A-264, filed 11/9/05, effective 12/10/05; 04-21-038, § 180-78A-264, filed 10/15/04, effective 11/15/04. Statutory Authority: RCW 28A.410.010, 03-19-021, §

180-78A-264, filed 9/5/03, effective 10/6/03. Statutory Authority: RCW 28A.305.130 (1) through (4). 02-04-014, § 180-78A-264, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010, 28A.305.130 (1) and (2). 01-03-153, § 180-78A-264, filed 1/24/01, effective 2/24/01; 99-23-023, § 180-78A-264, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-264, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-270 Approval standard—Knowledge and skills. Building on the mission to prepare educators who demonstrate a positive impact on student learning based on the Improvement of Student Achievement Act of 1993 (1209), the following evidence shall be evaluated to determine whether each preparation program is in compliance with the program approval standards of WAC 180-78A-220(5) [181-78A-220(5)]:

(1) **TEACHER.** Teacher candidates will complete a well-planned sequence of courses and/or experiences in which they acquire and apply knowledge about:

Foundational knowledge

(a) The state learning goals and essential academic learning requirements.

(b) The subject matter content for the area(s) they teach, including relevant methods course work and the knowledge and skills for each endorsement area for which the candidate is applying (chapter 180-82 [181-82] WAC).

(c) The social, historical, and philosophical foundations of education, including an understanding of the moral, social, and political dimensions of classrooms, teaching, and schools.

(d) The impact of technological and societal changes on schools.

(e) Theories of human development and learning.

(f) Inquiry and research.

(g) School law and educational policy, including laws pertaining to school health and safety.

(h) Professional ethics.

(i) The responsibilities, structure, and activities of the profession.

(j) Issues related to abuse including the identification of physical, emotional, sexual, and substance abuse, information on the impact of abuse on the behavior and learning abilities of students, discussion of the responsibilities of a teacher to report abuse or provide assistance to students who are the victims of abuse, and methods for teaching students about abuse of all types and their prevention.

(k) The standards, criteria and other requirements for obtaining the professional certificate, including a draft professional growth plan.

Effective teaching

(l) Research and experience-based principles of effective practice for encouraging the intellectual, social, and personal development of students.

(m) Different student approaches to learning for creating instructional opportunities adapted to learners of both sexes and from diverse cultural or linguistic backgrounds.

(n) Areas of exceptionality and learning — including, but not limited to, learning disabilities, visual and perceptual difficulties, and special physical or mental challenges.

(o) Effective instructional strategies for students at all levels of academic abilities and talents with an awareness of the influence of culture and gender on student learning.

(p) Instructional strategies for developing reading, writing, critical thinking, and problem solving skills.

(q) The prevention and diagnosis of reading difficulties and research-based intervention strategies.

(r) Classroom management and discipline, including:

(i) Individual and group motivation for encouraging positive social interaction, active engagement in learning, and self-motivation.

(ii) Effective verbal, nonverbal, and media communication for fostering active inquiry, collaboration, and supportive interactions in the classroom.

(s) Planning and management of instruction based on knowledge of the content area, the community, and curriculum goals.

(t) Formal and informal assessment strategies for evaluating and ensuring the continuous intellectual, social, and physical development of the learner.

(u) Collaboration with school colleagues, parents, and agencies in the larger community for supporting students' learning and well-being.

(v) Effective interactions with parents to support students' learning and well-being.

Professional development

(w) The opportunity for candidates to reflect on their teaching and its effects on student growth and learning.

(x) Educational technology including the use of computer and other technologies in instruction, assessment and professional productivity.

(y) Strategies for effective participation in group decision making.

(2) PRINCIPAL AND PROGRAM ADMINISTRATOR.

(a) Effective August 31, 1997, through August 31, 2004, principal and program administrator candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete a well-planned sequence of courses and/or experiences in an approved preparation program which shall include:

(i) Specific performance domains. An approved preparation program shall require the candidate to demonstrate in course work and the internship the following:

(A) **Leadership:** Formulating goals with individuals or groups; initiating and maintaining direction with groups and guiding them to the accomplishment of tasks; setting priorities for one's school in the context of community and district priorities and student and staff needs; integrating own and others' ideas for task accomplishment; initiating and planning organizational change.

(B) **Information collection:** Gathering data, facts, and impressions from a variety of sources about students, parents, staff members, administrators, and community members; seeking knowledge about policies, rules, laws, precedents, or practices; managing the data flow; classifying and organizing information for use in decision making and monitoring.

(C) **Problem analysis:** Identifying the important elements of a problem situation by analyzing relevant information; framing problems; identifying possible causes; identifying additional needed information; framing and reframing possible solutions; exhibiting conceptual flexibility; assisting others to form reasoned opinions about problems and issues.

(D) **Judgment:** Reaching logical conclusions and making high quality, timely decisions given the best available information.

(E) **Organizational oversight:** Planning and scheduling one's own and others' work so that resources are used appropriately, and short-term and long-term priorities and goals are met; monitoring projects to meet deadlines.

(F) **Implementation:** Making things happen; putting programs and plans into action; applying management technologies; applying methods of organizational change including collaborative processes; facilitating tasks; establishing progress checkpoints; considering alternative approaches; providing "mid-course" corrections when actual outcomes start to diverge from intended outcomes; adapting to new conditions.

(G) **Delegation:** Assigning projects or tasks together with clear authority to accomplish them and responsibility for their timely and acceptable completion.

(H) **Instructional program:** Envisioning and enabling instructional and auxiliary programs for the improvement of teaching and learning; recognizing the developmental needs of students; insuring appropriate instructional methods that address students' gender and cultural differences; designing positive learning experiences; accommodating differences in cognition and achievement; mobilizing the participation of appropriate people or groups to develop these programs and to establish a positive learning environment.

(I) **Curriculum design:** Interpreting school district curricula; planning and implementing with staff a framework for instruction that shall include the implementation of the state learning goals and essential academic learning requirements; initiating needs analyses and monitoring social and technological developments as they affect curriculum; responding to international content levels; adjusting content as needs and conditions change.

(J) **Student guidance and development:** Providing for student guidance, counseling, and auxiliary services; utilizing community organizations; responding to family needs; enlisting the participation of appropriate people and groups to design and conduct these programs and to connect schooling with plans for adult life; planning for a comprehensive program of student activities.

(K) **Staff development:** Identifying with participants the professional needs of individuals and groups; planning and organizing programs to improve staff effectiveness; supervising individuals and groups; engaging staff and others to plan and participate in recruitment and development; initiating self-development.

(L) **Measurement and evaluation:** Determining what diagnostic information is needed about students, staff, and the school environment; examining the extent to which outcomes meet or exceed previously defined standards, goals, or priorities for individuals or groups; drawing inferences for program revisions; interpreting measurements or evaluations for others; relating programs to desired outcomes; developing equivalent measures of competence.

(M) **Resource allocation:** Planning and developing the budget with appropriate staff; seeking, allocating, and adjusting fiscal, human, and material resources; utilizing the physical plant; monitoring resource use and reporting results.

(N) **Motivating others:** Building commitment to a course of action; creating and channeling the energy of self and others; planning and encouraging participation; supporting innovation; recognizing and rewarding effective performance; providing coaching, guidance, or correction for performance that needs improvement; serving as a role model.

(O) **Sensitivity:** Perceiving the needs and concerns of others; dealing with others tactfully; working with others in emotionally stressful situations or in conflict; managing conflict; obtaining feedback; recognizing multicultural sensibilities.

(P) **Oral expression:** Making oral presentations that are clear and easy to understand; clarifying and restating questions; responding, reviewing, and summarizing for groups; utilizing appropriate communicative aids; adapting for audiences.

(Q) **Written expression:** Expressing ideas clearly in writing; writing appropriately for different audiences such as students, teachers, and parents; preparing brief memoranda.

(R) **Philosophical and cultural values:** Acting with a reasoned understanding of the role of education in a democratic society and in accord with accepted ethical standards; recognizing philosophical and historical influences in education; reflecting an understanding of American culture, including current social and economic issues related to education; recognizing global influences on students and society.

(S) **Legal and regulatory applications:** Acting in accordance with relevant federal and Washington state laws, rules, and policies; recognizing governmental influences on education; working within local rules, procedures, and directives; administering contracts.

(T) **Policy and political influences:** Identifying relationships between public policy and education; recognizing policy issues; examining and affecting policies individually and through professional and public groups; relating policy initiatives to the welfare of students; addressing ethical issues.

(U) **Public and media relationships:** Developing common perceptions about school issues; interacting with parental and community opinion leaders; understanding and responding skillfully to the electronic and printed news media; initiating and reporting news through appropriate channels; enlisting public participation; recognizing and providing for market segments.

(ii) Performance assessment. An approved preparation program for principals shall require that prior to the internship each candidate shall engage in a performance assessment through a process determined by each preparation program. The results of this assessment shall be utilized by the college/university supervisor, the cooperating principal, and the principal candidate to cooperatively design the internship plan.

(b) Effective September 1, 2004, principal and program administrator candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete formalized learning opportunities, including an internship, in an approved program that includes:

(i) Successful demonstration of standards. A school administrator is an educational leader who promotes the success of all students by:

(A) Facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community;

(B) Advocating, nurturing, and sustaining a school culture and instructional program conducive to student learning and staff professional growth;

(C) Ensuring management of the organization, operations, and resources for a safe, efficient, and effective learning environment;

(D) Collaborating with families and community members, responding to diverse community interests and needs, and mobilizing community resources;

(E) Acting with integrity, fairness, and in an ethical manner; and

(F) Understanding, responding to, and influencing the larger political, social, economic, legal and cultural context.

(ii) Performance assessment. An approved preparation program for principals shall require that each candidate engage in an assessment process using the standards-based benchmarks approved by the state board of education and published by the office of the superintendent of public instruction. The benchmarks may not be changed without prior state board approval. All candidates shall exit the residency certificate program with a draft professional growth plan.

(3) **SUPERINTENDENT.** Superintendent candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete a well-planned sequence of courses and/or experiences in an approved preparation program for superintendents which shall include specific performance domains for superintendents. An approved preparation program for superintendents shall require the candidate to demonstrate in course work and the internship the following:

(a) **Strategic leadership:** The knowledge, skills and attributes to identify contexts, develop with others vision and purpose, utilize information, frame problems, exercise leadership processes to achieve common goals, and act ethically for educational communities. This includes:

(i) Professional and ethical leadership.

(ii) Information management and evaluation.

(b) **Instructional leadership:** The knowledge, skills and attributes to design with others appropriate curricula and instructional programs which implement the state learning goals and essential academic learning requirements, to develop learner centered school cultures, to assess outcomes, to provide student personnel services, and to plan with faculty professional development activities aimed at improving instruction. This includes:

(i) Curriculum, instruction, supervision, and learning environment.

(ii) Professional development and human resources.

(iii) Student personnel services.

(c) **Organizational leadership:** The knowledge, skills and attributes to understand and improve the organization, implement operational plans, manage financial resources, and apply decentralized management processes and procedures. This includes:

(i) Organizational management.

(ii) Interpersonal relationships.

(iii) Financial management and resource allocation.

(iv) Technology and information system.

(d) **Political and community leadership:** The knowledge, skills and attributes to act in accordance with legal provisions and statutory requirements, to apply regulatory standards, to develop and apply appropriate policies, to be conscious of ethical implications of policy initiatives and political actions, to relate public policy initiatives to student welfare, to understand schools as political systems, to involve citizens and service agencies, and to develop effective staff communications and public relations programs. This includes:

(i) Community and media relations.

(ii) Federal and Washington state educational law, public policy and political systems.

(4) **SCHOOL COUNSELOR.** Effective August 31, 1997 through August 31, 2005, school counselor candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete a well-planned sequence of courses and/or experiences in which they acquire and apply knowledge about:

(a) Human growth and development (studies that provide an understanding of the nature and needs of individuals at all developmental levels).

(b) Social and cultural foundations (studies that provide an understanding of issues and trends in a multicultural and diverse society).

(c) Helping relationships (studies that provide an understanding of counseling and consultation processes).

(d) Group work (studies that provide an understanding of group development, dynamics, counseling theories, group counseling methods and skills, and other group work approaches).

(e) Career and lifestyle development (studies that provide an understanding of career development and related life factors).

(f) Appraisal (studies that provide an understanding of individual and group approaches to assessment and evaluation), including assessment of the state learning goals and essential academic learning requirements.

(g) Research and program evaluation (studies that provide an understanding of types of research methods, basic statistics, and ethical and legal considerations in research).

(h) Professional orientation (studies that provide an understanding of all aspects of professional functioning including history, roles, organizational structures, ethics, standards, and credentialing).

(i) Foundations of school counseling including:

(i) History, philosophy, and trends in school counseling;

(ii) Role and function of the school counselor in conjunction with the roles of the professional and support personnel in the school;

(iii) Knowledge of the school setting and curriculum including the state learning goals and essential academic learning requirements;

(iv) Ethical standards and guidelines of the American School Counselor Association (ASCA);

(v) State and federal policies, laws, and legislation relevant to school counseling; and

(vi) Implications of sociocultural, demographic, and lifestyle diversity relevant to school counseling.

(j) Studies that provide an understanding of the coordination of counseling program components as they relate to the total school community including:

(i) Referral of children and adolescents for specialized help;

(ii) Coordination efforts with resource persons, specialists, businesses, and agencies outside the school to promote program objectives;

(iii) Methods of integration of guidance curriculum in the total school curriculum;

(iv) Promotion of the use of counseling and guidance activities and programs by the total school community to enhance a positive school climate; and

(v) Methods of planning and presenting guidance-related educational programs for school personnel and parents.

(k) Theory, knowledge and skills for the practice of school counseling including:

(i) Program development, implementation and evaluation. Studies in this area include:

(A) Use of surveys, interviews, and needs assessments;

(B) Design, implementation and evaluation of a comprehensive, developmental school program;

(C) Implementation and evaluation of specific strategies designed to meet program goals and objectives;

(D) Preparation of a counseling schedule reflecting appropriate time commitments and priorities in a developmental school counseling program; and

(E) Use of appropriate technology and information systems.

(ii) Counseling and guidance. Studies in this area include:

(A) Individual and group counseling and guidance approaches appropriate for the developmental stage and needs of children and adolescents;

(B) Group guidance approaches that are systematically designed to assist children and adolescents with developmental tasks;

(C) Approaches to peer helper programs;

(D) Issues which may affect the development and function of children and adolescents (e.g., abuse, eating disorders, attention deficit hyperactivity disorder, exceptionality, substance abuse, violence, suicide, dropout);

(E) Developmental approaches to assist students and parents at points of educational transition (e.g., postsecondary education, career and technical education, and career options);

(F) Crisis intervention and referral; and

(G) System dynamics, including family, school, community, etc.

(iii) Consultation. Studies in this area shall include:

(A) Methods of enhancing teamwork within the school community; and

(B) Methods of involving parents, teachers, administrators, support staff and community agency personnel.

(5) **SCHOOL COUNSELOR.** Effective September 1, 2005, school counselor candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete formalized learning opportunities, including an internship, in an approved program that includes:

(a) **Successful demonstration of standards:**

(i) **Foundations of the school counseling profession:**

Certified school counselors design, deliver, and evaluate student-centered, data-driven school counseling programs that advance the mission of the school in light of recognized theory, research, exemplary models, community context, and professional standards.

(ii) **School counseling and student competencies:** Certified school counselors integrate academic, career, and personal/social student competencies, including Washington state learning goals and essential academic learning requirements, into the school counseling program; teach counseling and guidance related material by using effective curriculum, instructional strategies, and instructional management; support teachers and parents in helping students develop knowledge and skill for learning, living, and working; and provide information about best practices to a school community.

(iii) **Human growth and development:** Certified school counselors apply comprehensive, in-depth knowledge of human growth and development to improve student learning, well-being, and to enhance resiliency; provide guidance to parents and teachers about developmentally appropriate practices that support students throughout their schooling experience.

(iv) **Counseling theories and technique:** Certified school counselors demonstrate an understanding of established and emerging counseling theories through effective use of individual and group techniques for working with a diverse population.

(v) **Equity, fairness, and diversity:** Certified school counselors value and show respect for all members of the community; demonstrate fairness, equity, and sensitivity to every student, and advocate for equitable access to instructional programs and activities; use data for designing and implementing plans that remove barriers to learning; and help to close achievement gaps among sub-groups of students.

(vi) **School climate:** Certified school counselors establish and foster a safe, inclusive, and nurturing learning environment for students, staff, and families and use strategies designed to prevent or resolve problems that could limit or diminish the capacity of students to learn and achieve at their highest levels.

(vii) **Collaboration with school staff, family, and community:** Certified school counselors work collaboratively with school staff, families and community members to achieve common goals for the education of students, improvement of schools, and advancement of the larger community; know appropriate behavior management strategies and can team with staff and families to improve student achievement; and use their knowledge of community resources to make appropriate referrals based on the needs of students.

(viii) **Information resources and technology:** Certified school counselors select and use informational resources and technology to facilitate delivery of a comprehensive school counseling program that meets student needs; and skillfully use technology to enhance communication.

(ix) **Student assessment and program evaluation:** Certified school counselors understand the basic principles and purposes of assessment; collection and use of data; regularly monitor student progress and are able to communicate

the purposes, design, and results of assessments to various audiences; know basic principles of research design, action research, and program evaluation for purposes of program improvement and accountability.

(x) **Leadership and advocacy:** Certified school counselors support practices and policies that promote academic rigor-skills for learning, living, and working; provide leadership that enhances student academic, career, and personal/social development and advocate for guidance as an integral part of a school's educational system; model practices that help students, parents, teachers, and policy makers understand how curriculum, instruction and assessment can help students see the relationship between effort, performance, and success beyond high school. Certified school counselors help promote understanding of graduation requirements, WASL scores, and development of the high school and beyond plan.

(xi) **Professionalism, ethics, and legal mandates:** Certified school counselors develop a professional identity congruent with knowledge of all aspects of professional functions, professional development, and state and national school counselor organizations. They adhere strictly to the profession's codes of ethics, especially those that have been established by the American Counseling Association (ACA), the American School Counselor Association (ASCA), the National Board for Certified Counselors (NBCC), and other relevant codes of ethics. They are familiar with state and federal policies, laws, and legislation relevant to school counseling.

(xii) **Reflective practice:** Certified school counselors integrate knowledge, skills, and life experiences to respond effectively to new or unexpected critical events and situations; serve as change agents by using their understanding of schools as social, cultural and political systems within a larger organizational context; monitor practice with continuous, in-depth reflection; and make adjustments as needed.

(b) **Performance assessment.** An approved preparation program for school counselors shall require that each candidate engage in an assessment process using the standards-based benchmarks approved by the state board of education and published by the office of the superintendent of public instruction. The benchmarks may not be changed without prior state board approval. All candidates shall exit the residency certificate program with a draft professional growth plan.

(6) **SCHOOL PSYCHOLOGIST.** Effective August 31, 1997, through August 31, 2005, school psychologist candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete a well-planned sequence of courses and/or experiences in which they acquire and apply knowledge about:

(a) Knowledge of the field. The candidate has knowledge and skill in relevant fields of study, including:

- (i) Learning theory.
- (ii) Personality theory and development.
- (iii) Individual and group testing and assessment.
- (iv) Individual and group counseling and interviewing theory and techniques.
- (v) Basic statistics.
- (vi) Child development.

(vii) Exceptional children.

(viii) Social and cultural factors.

(ix) Deviant personality.

(x) Curriculum, including the state learning goals and essential academic learning requirements.

(xi) Research design.

(xii) Physiological and biological factors.

(b) Assessment and diagnosis. The candidate has knowledge and skill necessary to select, administer, score, and interpret instruments and techniques in the following areas:

(i) Intellectual and cognitive assessment.

(ii) Individual and group academic skills: Standardized norm-referenced and criteria-referenced measurements and curriculum-based measurements.

(iii) Personality assessment.

(iv) Assessment of perceptual skills.

(v) Assessment of adaptive behavior; assessment of language skills.

(c) Behavioral observation and analysis. The candidate has knowledge and skill in behavior observation, including:

(i) Data taking.

(ii) Frequency measures.

(iii) Qualitative and quantitative analysis of classroom behavior.

(iv) Developmental and personality analysis, including perceptual, cognitive, social, and affective and language development in children.

(d) Counseling and interviewing. The candidate has the knowledge and skill necessary to:

(i) Provide individual and group counseling to students and parents.

(ii) Conduct interviews essential to information collecting from parents, teachers, and other professionals.

(e) Program development. The candidate has the knowledge and skill to make educational prescriptions, including specification of remedial environmental changes, both curricular and behavioral, for a particular student.

(f) Consultation. The candidate has the knowledge and skill to:

(i) Function on multidisciplinary teams in evaluating and placing students.

(ii) Confer with and make recommendations to parents, specialists, teachers, referral personnel, and others relative to student's characteristics and needs in the educational and home environments.

(g) Program evaluation and recordkeeping. The candidate has the knowledge and skill necessary to develop and implement program evaluation and maintain required records.

(h) Professionalism. The candidate has knowledge of professional standards regarding ethical and legal practices relevant to the practice of school psychology. The candidate demonstrates knowledge and skill in written and oral reporting of assessment and remedial recommendations which will meet ethical and legal standards.

(i) Research. The candidate has knowledge and skill to:

(i) Evaluate and perform research.

(ii) Apply school-oriented research.

(iii) Construct criterion-referenced instruments with reference to such educational decisions as:

(A) Retention in grade.

(B) Acceleration and early entrance.

(C) Early entrance.

(7) **School psychologist.** Effective September 1, 2005, school psychologist candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete formalized learning opportunities, including an internship, in an approved program that includes:

(a) **Successful demonstration of standards:**

(i) **Data-based decision-making and accountability:**

Certified school psychologists have knowledge of varied models and methods of assessment that yield information useful in identifying strengths and needs, in understanding problems, and in measuring progress and accomplishments; use such models and methods as part of a systematic process to collect data and other information, translate assessment results into empirically based decisions about service delivery, evaluate the outcomes of services; and data-based decision making permeates every aspect of professional practice.

(ii) **Consultation and collaboration:** Certified school psychologists have knowledge of behavioral, mental health, collaborative, and/or other consultation models and methods and of their application to particular situations; collaborate effectively with others in planning and decision-making processes at the individual, group, and system levels.

(iii) **Effective instruction and development of cognitive/academic skills:** Certified school psychologists have knowledge of human learning processes, techniques to assess these processes, and direct and indirect services applicable to the development of cognitive and academic skills; collaborate with others, develop appropriate cognitive and academic goals for students with different abilities, disabilities, strengths, and needs; implement interventions to achieve those goals; and evaluate the effectiveness of interventions, including, but not limited to, instructional interventions and consultation.

(iv) **Socialization and development of life skills:** Certified school psychologists have knowledge of human developmental processes, techniques to assess these processes, and direct and indirect services applicable to the development of behavioral, affective, adaptive, and social skills; collaborate with others, develop appropriate behavioral, affective, adaptive, and social goals for students of varying abilities, disabilities, strengths, and needs; implement interventions to achieve those goals; and evaluate the effectiveness of interventions, including, but not limited to, consultation, behavioral assessment/intervention, and counseling.

(v) **Student diversity in development and learning:** Certified school psychologists have knowledge of individual differences, abilities, and disabilities and of the potential influence of biological, social, cultural, ethnic, experiential, socioeconomic, gender-related, and linguistic factors in development and learning; demonstrate the sensitivity and skills needed to work with individuals of diverse characteristics and to implement strategies selected and/or adapted based on individual characteristics, strengths, and needs.

(vi) **School and systems organization, policy development, and climate:** Certified school psychologists have knowledge of general education, special education, and other educational and related services; understanding of schools and other settings as systems; work with individuals and

groups to facilitate policies and practices that create and maintain safe, supportive, and effective learning environments for children and others.

(vii) **Prevention, crisis intervention, and mental health:** Certified school psychologists have knowledge of human development and psychopathology and of associated biological, cultural, and social influences on human behavior; provide or contribute to prevention and intervention programs that promote the mental health and physical well-being of students.

(viii) **Home/school/community collaboration:** Certified school psychologists have knowledge of family systems, including family strengths and influences on student development, learning, and behavior, and of methods to involve families in education and service delivery; work effectively with families, educators, and others in the community to promote and provide comprehensive services to children and families.

(ix) **Research and program evaluation:** Certified school psychologists have knowledge of research, statistics, and evaluation methods; evaluate research, translate research into practice, and understand research design and statistics in sufficient depth to plan and conduct investigations and program evaluations for improvement of services.

(x) **School psychology practice and development:** Certified school psychologists have knowledge of the history and foundations of their profession; of various service models and methods; of public policy development applicable to services to children and families; and of ethical, professional, and legal standards, including the Washington Administrative Code; practice in ways that are consistent with applicable standards, are involved in their profession, and have the knowledge and skills needed to acquire career-long professional development.

(xi) **Information technology:** Certified school psychologists have knowledge of information sources and technology relevant to their work; access, evaluate, and utilize information sources and technology in ways that safeguard or enhance the quality of services.

(b) **Performance assessment.** An approved preparation program for school psychologists shall require that each candidate engage in an assessment process using the standards-based benchmarks approved by the state board of education and published by the office of the superintendent of public instruction. The benchmarks may not be changed without prior state board approval. All candidates shall exit the residency certificate program with a draft professional growth plan.

(8) **SCHOOL SOCIAL WORKER.** Effective August 31, 1997, through August 31, 2005, school social worker candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete a well-planned sequence of courses and/or experiences in which they acquire and apply knowledge about:

(a) Knowledge for social work practice. The candidate has knowledge and skills in relevant fields of study including:

(i) Values.

(A) Knowledge of profession including values, skills, and ethics; and

(B) National Association of Social Workers (NASW) Code of Ethics and school social work guidelines for practice.

(ii) Human behavior and the social environment.

(A) Community theory and community change (e.g., community organization and development, social planning, networking, and case management);

(B) Systems and organizational theory (e.g., school as a bureaucracy);

(C) Social disorganization (e.g., poverty, family and community violence, unemployment, addictions, multiple losses), and context of family in a changing society;

(D) Family dynamics and theories of family therapy;

(E) Human/child growth and development;

(F) Diverse populations of: Race, culture, social class, life style, age, gender and the disabled;

(G) Theories of personality; and

(H) Use of computer technology for social work practice.

(b) Service delivery and program development. The candidate will have knowledge and skills in the following activities:

(i) Direct practice.

(A) Referring, developing, and coordinating resources and services in the local education agency and community;

(B) Knowledge and skills related to families;

(C) Case management;

(D) Working with vulnerable and "hard to reach" individuals and families, including those from diverse populations;

(E) Crisis intervention, conflict resolution, stress management and decision-making skills;

(F) Individual and group counseling to improve students' self-knowledge and interactional skills for personal empowerment;

(G) Interviewing and counseling students in relation to social-personal problems adjudged to be impairing student's ability to learn;

(H) Family interventions including parent education; referral to resources; family counseling;

(I) Teaching children communication and interpersonal relationship skills through individual/group/classroom interventions;

(J) Collaborating and consulting with parents and community to assure readiness to learn for all students;

(K) Multidimensional assessment of student's social-emotional adjustment, adaptive behaviors, individual strengths, and environmental assets;

(L) Intervention case planning processes; and

(M) Career and academic guidance to students in their school to work transitions.

(ii) Indirect practice.

(A) Liaison and facilitator between and among home, school and community;

(B) Collaborate and consult with other educational staff to assure student progress;

(C) Use computer technology for practice and efficiency;

(D) Develop strategies for increased parental and community involvement with the school;

(E) Develop programs of remediation for students and their families;

(F) Design, coordinate and facilitate programs such as suicide prevention, truancy and drop-out prevention, and prevention of teenage pregnancy;

(G) Provide staff development programs;

(H) Work collaboratively with educational staff to develop programs to address school-community identified needs; and

(I) Function as change agents.

(c) Research and evaluation. The candidate will have necessary skills and knowledge to:

(i) Collect and interpret data in order to evaluate student, school, and community needs;

(ii) Evaluate own practice;

(iii) Become consumer of research findings;

(iv) Understand use of program evaluation methods; and

(v) Utilize computer technology for research and evaluation.

(d) Context for educational system. The candidate will have necessary knowledge and skills to apply the following:

(i) State learning goals and essential academic learning requirements;

(ii) Theories of learning;

(iii) School law and professional ethics;

(iv) Computer technology in the workplace; and

(v) Understanding of policies, laws, and procedures.

(9) **School social workers.** Effective September 1, 2005, school social worker candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete formalized learning opportunities, including an internship, in an approved program that includes:

(a) **Successful demonstration of standards:**

(i) **Core concepts and professional practice foundations:** The certified school social worker understands and applies the core concepts, tools of inquiry, theories, and skills and values of the general field of social work to the educational system; relates these core concepts to the Washington state learning goals, essential academic learning requirement (EALRS), Revised Code of Washington (RCW), Washington Administrative Code (WAC) and the Individuals With Disabilities Education Act (IDEA); and utilizes these constructs to facilitate the educational, social and emotional development of students by working towards reducing the impact of nonacademic barriers to academic success.

(ii) **Planning, ecological assessment and evaluation:** The certified school social worker understands and knows how to apply various formal and informal assessment tools to identify student, family, school and community needs using a strengths and systems perspective; engage students (individually or in groups), families, school staff and/or the larger community in designing interventions and developing programs, which bolsters the strengths and meets the needs identified; uses best practices in evaluation criteria to monitor the success of the intervention; revisions to the intervention plan are based on systematic data collection; and to utilize the principles of research design and program evaluation to improve student learning outcomes.

(iii) **Prevention/intervention services:** The certified school social worker has knowledge of and ability to provide

prevention education and skill building in such areas as violence, mediation, bullying, substance misuse and abuse, conflict resolution/management, and stress management; provide direct intervention services to students through crisis management, case management, counseling, skill building, behavior management, teaching of psycho-educational curricula, personal development skills and classroom presentations; and provide both prevention and intervention services to students individually, in small group or classroom settings as well as with students' families.

(iv) **Home, school and community consultation and collaboration:** The certified school social worker understands and has the ability to develop consultative and collaborative relationships both individually and on a systemic level with students, colleagues, families and the community to support students' learning and social/emotional development; assist students and their families in networking with various social support systems in order to benefit student learning; and use their extensive knowledge of community resources to appropriately refer students and families to various community services.

(v) **Advocacy and facilitation:** The certified school social worker understands and has the ability to advocate and facilitate changes that empower students, families, educators and others to gain access to and effectively use school and community resources.

(vi) **Diversity and school climate:** The certified school social worker understands how a student's learning is influenced and impacted by culture, family dynamics, community values, individual learning styles, talents, gender, sexual orientation, language, prior learning, economics and disabilities; utilize this knowledge to design, implement and evaluate programs that enhance student learning and social interaction in school, family and community settings; and how to create and support a safe, nurturing and secure learning environment by designing and using strategies to prevent or resolve ecological barriers that could limit or diminish the capacity of students to learn and achieve at their highest levels.

(vii) **Professional development:** The certified school social worker understands and values the need for professional development and is able to use supervision, consultation, collaboration, continuing education and professional research to evaluate and enhance their practice.

(viii) **Information resources and technology:** The certified school social worker uses informational resources and technology to communicate, monitor student progress and evaluate programs; and access, appraise and utilize information sources and technology in ways that safeguard and enhance their quality of services.

(ix) **Professional code of conduct and ethics:** The certified school social worker understands, maintains and applies the professional codes of conduct and ethical practice guidelines embodied in the National Association of Social Work (NASW) code of ethics and School Social Work standards developed for the field of education; and are familiar with district, state and federal laws and policies relevant to the educational setting.

(b) **Performance assessment.** An approved preparation program for school social workers shall require that each candidate engage in an assessment process using the standards-based benchmarks approved by the state board of education

and published by the office of the superintendent of public instruction. The benchmarks may not be changed without prior state board approval. All candidates shall exit the residency certificate program with a draft professional growth plan.

[06-02-051, recodified as § 181-78A-270, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.401.010 [28A.410.010]. 04-21-038, § 180-78A-270, filed 10/15/04, effective 11/15/04; . Statutory Authority: RCW 28A.410.010. 04-04-089, § 180-78A-270, filed 2/3/04, effective 3/5/04. Statutory Authority: RCW 28A.305.130 and 28A.410.010. 02-18-037, § 180-78A-270, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-78A-270, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-23-023, § 180-78A-270, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-270, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-272 Approval of residency certificate preparation programs for principals/program administrators, school psychologists, school counselors and school social workers. Colleges/universities offering residency certificate programs for principals/program administrators shall have these programs approved by the state board of education by August 31, 2004. Colleges/universities offering residency certificate programs for school psychologists, school counselors, and school social workers shall have these programs approved by the state board of education by August 31, 2005.

[06-02-051, recodified as § 181-78A-272, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 04-20-089, § 180-78A-272, filed 10/5/04, effective 11/5/04.]

WAC 181-78A-307 Course work/internship waiver. The college or university may waive required course work and/or waive or reduce in length the required internship for any candidate, based on an individual review if the college or university determines that previous course work, work experiences, or alternative learning experiences have or will provide the candidate knowledge and skills to be otherwise gained from the required course work or internship.

[06-02-051, recodified as § 181-78A-307, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-307, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-308 Special consideration for certain former para-educators. An approved teacher preparation program may determine that a candidate who has work experience as a noncertificated para-educator may substitute his or her work experience for some teacher preparation program requirements if the candidate presents evidence that he or she has served as a para-educator within the previous seven years and that at least fifty percent of the candidate's work as a para-educator was involved in instructional activities with children under the supervision of a certificated teacher and that the candidate worked a minimum of six hundred thirty hours in any one school year.

[06-02-051, recodified as § 181-78A-308, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-308, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-310 Program approval—Teachers, collaboration with K-12 schools. An approved preparation program annually shall develop and implement a plan to enhance the level of collaboration and interaction between the program's faculty and K-12 schools in the state. The plan shall require, to the maximum extent feasible, that each member of the full-time teacher preparation faculty annually provide instruction to students in the K-12 classroom in a public or approved private school setting in the state of Washington, during the regular school year. The instruction that will be provided must be in accordance with RCW 28A.410.025 and applicable state board of education rules.

[06-02-051, recodified as § 181-78A-310, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-23-023, § 180-78A-310, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-310, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-315 Program approval requirement—Field experience for school counselors. Approved school counselor preparation programs shall require all candidates to complete a supervised internship in the schools that includes a minimum of four hundred hours of on the job professional service and one hour per week of individual supervision provided by the site supervisor. Site supervisors must be fully certificated school personnel and have a minimum of three years of professional experience in the role of school counselor. Faculty supervision including on-site visits will be provided on an ongoing basis. Prior to the internship, the candidate will complete a faculty supervised practicum (a distinctly defined clinical experience intended to enable the candidate to develop basic counseling skills and integrate professional knowledge).

[06-02-051, recodified as § 181-78A-315, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-315, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-317 Program approval requirement—Field experience for school psychologists. Approved school psychology preparation programs shall require all students to complete a supervised internship in the schools that includes a minimum of 1200 hours of on-the-job professional service and one hour per week of individual supervision provided by the site supervisor. Site supervisors must be fully certificated school personnel and have a minimum of three years of professional experience in the role of school psychologist. Faculty supervision including on-site visits will be provided on an ongoing basis. Prior to the internship, the student will complete a faculty-supervised practicum (a distinctly defined clinical experience intended to enable the student to develop basic school psychology skills and integrate professional knowledge).

[06-02-051, recodified as § 181-78A-317, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-317, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-319 Program approval requirement—Field experience for school social workers. Approved school social worker preparation programs shall require all candidates to complete a supervised, advanced

level internship that is in compliance with the most current accreditation standards of the Council of Social Work Education, with a minimum of 300 hours in a school setting, providing on-the-job professional service. Supervision shall be provided by a site supervisor or faculty field supervisor who holds current Washington state certification as a school social worker and has a minimum of three years of professional experience in this role. Supervision, which may include on-site visits, will be provided for a minimum of one hour per week until the internship is completed.

[06-02-051, recodified as § 181-78A-319, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 05-15-022, § 180-78A-319, filed 7/7/05, effective 8/7/05; 04-21-038, § 180-78A-319, filed 10/15/04, effective 11/15/04.]

WAC 181-78A-325 Program approval requirement—Field experience for all administrators. The internship shall take place in an education setting serving under the general supervision of a certificated practitioner who is performing in the role for which certification is sought. Components of the required internship shall include demonstration by the candidate that he or she has the appropriate, specific relevant skills pursuant to WAC 180-78A-270 [181-78A-270]. An approved preparation program for administrators and, prior to August 31, 1998, for principals, shall require an internship of at least three hundred sixty hours: Provided, That an approved preparation program for principals shall require for those persons entering the program August 31, 1998, and after, an internship which requires practice as an intern during a full school year. A "full school year" shall mean seven hundred twenty hours of which at least one-half shall be during school hours, when students and/or staff are present and include the principal performance domains as stated in WAC 180-78A-270 [181-78A-270] (2)(a) or (b): Provided further, That an approved preparation program for principals shall require for those individuals entering the program on or after September 1, 2004, an internship that shall include demonstration by the candidate that she or he has the appropriate, specific skills pursuant to the standards identified in WAC 180-78A-270 [181-78A-270] (2)(b) and meets, at minimum, the standards-based benchmarks approved by the state board of education and published by the office of the superintendent of public instruction. The benchmarks may not be changed without prior state board approval.

[06-02-051, recodified as § 181-78A-325, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 and 28A.410.010. 02-18-037, § 180-78A-325, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-325, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-330 Demographic information. Building on the mission to prepare educators who demonstrate a positive impact on student learning, approved preparation programs annually shall provide the state board of education the following information:

- (1) Demographic characteristics, including gender and ethnicity, of students completing approved programs during the period from July 1 of the previous year to June 30 of the reporting year;
- (2) The number of full-time and part-time faculty and graduate teaching assistants teaching in approved programs

during each term from summer through spring of the reporting year; and

(3) Demographic characteristics of faculty teaching in approved programs including ethnicity and gender.

[06-02-051, recodified as § 181-78A-330, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-330, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-400 Internship standards—State-funded administrator interns. (1) Principal, superintendent, and program administrator interns participating in the state-funded administrator internship program shall meet the following standards:

(a) Enrollment in a principal, superintendent or program administrator preparation program approved by the state board of education, pursuant to WAC 180-78A-105 [181-78A-105].

(b) Completion of all administrator field experience, knowledge and skill certification requirements, pursuant to chapters 180-78A [181-78A] and 180-79A [181-79A] WAC.

(c) Completion of up to forty-five internship days for school employees selected for a principal, superintendent or program administrator certification internship when K-12 students and/or staff are present; provided the internship shall meet the following criteria:

(i) The intern, mentor administrator and college/university intern supervisor shall cooperatively plan the internship, provided that the school district is encouraged to include teachers and other individuals in the internship planning process.

(ii) Superintendent interns shall demonstrate competency in the standards identified as needing development by the mentor administrator, college/university supervisor, and the intern, pursuant to WAC 180-78A-270(3) [181-78A-270(3)]. Principal and program administrator interns admitted to programs before September 1, 2004, shall demonstrate competency in the performance domains identified as needing development by the mentor administrator, college/university, and the intern, pursuant to either WAC 180-78A-270 [181-78A-270] (2)(a) or (b) pursuant to WAC 180-78A-100 [181-78A-100]. Principal and program administrator interns admitted to programs on or after September 1, 2004, shall demonstrate competency in the standards identified as needing development by the mentor administrator, college/university supervisor, and the intern, pursuant to WAC 180-78A-270 [181-78A-270] (2)(b).

(iii) The activities to be undertaken to implement the internship shall be outlined in writing.

(d) The intern, college/university supervisor and mentor administrator shall determine whether the intern days and the selected performance domains or competencies were demonstrated.

(2) Participating colleges/universities, and school districts may establish additional internship standards and shall report such standards to the state board of education.

(3) Each college/university shall submit a summary report of the internships to the state board of education.

[06-02-051, recodified as § 181-78A-400, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 and 28A.410.010. 02-18-037, § 180-78A-400, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW

28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-400, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-500 Professional certificate program approval. All professional certificate programs for teachers, principals/program administrators, and school counselors, school psychologists, and school social workers shall be approved pursuant to the requirements in WAC 180-78A-520 [181-78A-520] through 180-78A-540 [181-78A-540]. Only colleges/universities with state board of education approved residency certificate teacher, principals/program administrator, and school counselor, school psychologist, and school social worker preparation programs are eligible to apply for approval to offer professional certificate programs.

[06-02-051, recodified as § 181-78A-500, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.401.010 [28A.410.010]. 04-21-038, § 180-78A-500, filed 10/15/04, effective 11/15/04. Statutory Authority: RCW 28A.305.130 and 28A.410.010. 02-18-037, § 180-78A-500, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.305 [28A.305.130] (1) and (2). 00-13-064, § 180-78A-500, filed 6/16/00, effective 7/17/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-500, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-505 Overview—Teacher professional certificate program. (1) By September 1, 2001, all colleges and universities offering a professional certificate program must be in compliance with the new program standards.

(2) To obtain a professional certificate, the residency teacher will need to complete a state board of education approved professional certificate program collaboratively developed by a college/university and the professional educational advisory board (PEAB).

(3)(a) Prior to full admission to a professional certificate program, excluding the preassessment seminar, the candidate shall complete provisional status with a school district under RCW 28A.405.220, or the equivalent with a state board-approved private school or state agency providing educational services for students.

(b) The candidate may be fully admitted to the professional certificate program, prior to completion of provisional status, if the candidate provides to the program a letter from the candidate's employing school district, private school, or state agency providing educational services for students, documenting the employer's support for the candidate's full admission to the professional certificate program.

(4) The professional certificate requires successful demonstration of three standards (effective teaching, professional development, and professional contributions) and 12 criteria, pursuant to WAC 180-78A-540 [181-78A-540], related to these standards. Wherever appropriate, the residency teacher will need to provide evidence that his/her teaching has had a positive impact on student learning as defined in WAC 180-78A-010(8) [181-78A-010(8)].

(5)(a) The candidate and college or university shall develop an individual professional growth plan to be reviewed and agreed upon after input from and consultation and collaboration (WAC 180-78A-010(9) [181-78A-010(9)]) with his/her professional growth team.

(b) The individual professional growth plan will be based on an analysis of the student/learning context in that teacher's assignment and a preassessment of that teacher's

ability to demonstrate the standards and criteria set forth in WAC 180-78A-540 [181-78A-540].

(c) The individual professional growth plan shall include instruction and assistance components for each residency teacher. The instruction and assistance components will be designed to give the residency teacher the necessary knowledge and skills needed to demonstrate successfully the standards and criteria set forth in WAC 180-78A-540 [181-78A-540].

(6) The final component of the program will be a culminating assessment seminar in which the residency teacher's ability to demonstrate the standards and criteria cited above will be evaluated. These assessments shall include multiple forms of data collected over time, including evidence of positive impact on student learning, where appropriate.

(7) As part of the program development, the college/university and the PEAB shall establish criteria and procedures for determining when the residency teacher has successfully completed the program. When the program administrator has verified to the superintendent of public instruction that the candidate has completed the approved program, the state will issue the residency teacher a professional certificate.

[06-02-051, recodified as § 181-78A-505, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 [28A.410.010]. 05-15-054, § 180-78A-505, filed 7/12/05, effective 8/12/05. Statutory Authority: RCW 28A.210.160. 03-23-037, § 180-78A-505, filed 11/12/03, effective 12/13/03. Statutory Authority: RCW 28A.410.010. 03-04-025, § 180-78A-505, filed 1/27/03, effective 2/27/03. Statutory Authority: RCW 28A.305.130 and 28A.410.010. 02-18-037, § 180-78A-505, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.410.010. 02-14-111, § 180-78A-505, filed 7/2/02, effective 8/2/02. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 00-03-049, § 180-78A-505, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-505, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-507 Overview—Principal/program administrator professional certificate programs. By September 1, 2007, all colleges and universities offering a professional certificate program for principals/program administrators must be in compliance with the new program standards. To obtain a professional certificate, the residency principal will need to complete a state board of education approved professional certificate program, have satisfactory district evaluations for an administrator role, and document three contracted school years of employment as a principal or assistant principal; the residency program administrator will need to complete a state board of education approved professional certificate program and have satisfactory district evaluations for an administrator role.

The professional certificate for principals/program administrators requires successful demonstration of six standards at the professional certification benchmark levels, or above, and the candidate will need to provide evidence that he/she has had a positive impact on student learning.

The candidate and college or university shall develop an individual professional growth plan to be reviewed and agreed upon after input from and consultation and collaboration with his/her professional growth team. The individual growth plan shall address the six knowledge and skills standards, focus on activities that enhance student learning, and be informed by the performance evaluation process, and an analysis of the administrative context and assignment.

[06-02-051, recodified as § 181-78A-507, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 05-23-042, § 180-78A-507, filed 11/9/05, effective 12/10/05; 04-21-039, § 180-78A-507, filed 10/15/04, effective 11/15/04; 04-04-010, § 180-78A-507, filed 1/23/04, effective 2/23/04. Statutory Authority: RCW 28A.305.130 and 28A.410.010. 02-18-037, § 180-78A-507, filed 8/26/02, effective 9/26/02.]

WAC 181-78A-509 Overview—Educational staff associate—School counselor/school psychologist/school social worker professional certificate programs. By September 1, 2007, all colleges and universities offering ESA professional certificate programs must be in compliance with the new program standards. To obtain a professional ESA certificate, individuals will need to hold a valid ESA residency certificate, be employed in his/her ESA role in a public school district, state board-approved private school or state agency providing educational services for students, and complete a state board of education approved professional ESA certificate program in his/her ESA role.

(1) The professional certificate requires successful demonstration of the ESA role standards at the professional certificate benchmark levels, or above, and the candidate will need to provide evidence that he/she has had a positive impact on student learning.

(2) The candidate shall develop an individual professional growth plan to be reviewed and agreed upon after input from and consultation with his/her professional growth team. The individual growth plan shall be based on an assessment of the candidate's ability to demonstrate standards at the professional benchmark level and evidence of a positive impact on student learning.

[06-02-051, recodified as § 181-78A-509, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.401.010 [28A.410.010]. 04-21-038, § 180-78A-509, filed 10/15/04, effective 11/15/04.]

WAC 181-78A-510 Responsibilities of the professional certificate administrator. Each college or university shall identify a professional certificate administrator who shall have the primary responsibility for the overall administration of the program.

[06-02-051, recodified as § 181-78A-510, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 00-03-049, § 180-78A-510, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-510, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-515 Program approval standards for professional certificate approved programs. The program approval standards for approved programs for teachers are as follows:

(1) **Professional education advisory boards.** The college or university, in compliance with the provisions of WAC 180-78A-250 [181-78A-250] and 180-78A-520 [181-78A-520], has established and maintained a professional education advisory board to participate in decisions related to the development, implementation, and revision of the professional certificate program for teachers.

(2) **Accountability.** Each college or university, in compliance with the provision of WAC 180-78A-525 [181-78A-525], has established a performance-based program.

(3) **Resources.** The college or university, in compliance with the provision of WAC 180-78A-530 [181-78A-530], is

responsible for providing the resources needed to develop and maintain quality professional programs.

(4) **Program design.** Each college or university, in compliance with the provision of WAC 180-78A-535 [181-78A-535], is responsible for establishing an approved professional certificate program which accommodates the individual professional growth needs of each candidate as set forth in his/her professional growth plan.

(5) **Knowledge and skills.** Each college or university, in compliance with the provision of WAC 180-78A-540 [181-78A-540], has established policies requiring that all candidates for certification demonstrate the standards and criteria for the professional certificate set forth in WAC 180-78A-540 [181-78A-540].

[06-02-051, recodified as § 181-78A-515, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 00-03-049, § 180-78A-515, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-515, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-520 Approval standard—Professional education advisory board. The following evidence shall be evaluated to determine whether each professional certificate program is in compliance with the program approval standards of WAC 180-78A-515(1) [181-78A-515(1)].

(1) The professional education advisory board established for the preservice program in accordance with WAC 180-78A-209 [181-78A-209] shall also serve as the professional advisory board for the professional certificate program.

(2) The professional education advisory board has participated in the development of the professional certificate program and has recommended approval of the proposed program prior to its submission to the state board of education for approval.

(3) The professional education advisory board has reviewed the annual summary on the status of all candidates in the program required by WAC 180-78A-525(7) [181-78A-525(7)].

(4) The professional education advisory board has made recommendation(s), as appropriate, for program changes to the professional certificate administrator who shall implement or respond to the recommendation(s) in a timely manner.

[06-02-051, recodified as § 181-78A-520, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 00-03-049, § 180-78A-520, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-520, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-525 Approval standard—Accountability. The following evidence shall be evaluated to determine whether each professional certificate program is in compliance with the program approval standards of WAC 180-78A-515(2) [181-78A-515(2)]. Each college and university shall:

(1) Submit for initial approval to the state board of education a performance-based professional certificate program for teachers which shall include the five program components specified in WAC 180-78A-535(4) [181-78A-535(4)].

(2) Provide documentation that the respective professional education advisory board has participated in the development of and has approved the proposal.

(3) Identify the professional certificate administrator who shall be responsible for the administration of the professional certificate program.

(4) Delegate to the professional certificate administrator responsibility for reviewing or overseeing the following: Application for the professional certificate program; advising candidates once accepted; developing and implementing the individualized professional growth plan, the instruction and assistance components, and the assessment seminar; maintaining current records on the status of all candidates accepted into the professional certificate program; and serving as the liaison with the superintendent of public instruction certification office to facilitate the issuance of the professional certificates when candidates have met the required standards.

(5) Establish the admission criteria that candidates for the professional certificate shall meet to be accepted into the professional certificate program.

(6) Describe the procedures that the approved program will use to determine that a candidate has successfully demonstrated the standards and criteria for the professional certificate set forth in WAC 180-78A-540 [181-78A-540].

(7) Prepare an annual summary of the status of all candidates in the program and submit the summary to the respective professional education advisory board.

(8) Submit any additional information required to the respective professional education advisory board that it requests.

(9) Facilitate an on-site review of the program when requested by the state board of education to ensure that the program meets the state's program approval standards and to provide assessment data relative to the performance standards.

Provided, That the on-site reviews shall be scheduled on a five-year cycle unless the state board of education approves a variation in the schedule.

Provided further, That institutions seeking National Council for the Accreditation of Teacher Education (NCATE) accreditation may request from the state board of education approval for concurrent site visits which shall utilize the same documentation whenever possible.

[06-02-051, recodified as § 181-78A-525, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 00-03-049, § 180-78A-525, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-525, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-530 Approval standard—Resources. The following evidence shall be evaluated to determine whether each professional certificate program is in compliance with the resources program approval standard of WAC 180-78A-515(3) [181-78A-515(3)]:

(1) Administrators, faculty, and teachers implementing the professional certificate program have appropriate qualifications (academic, experience, or both) for the roles to which they are assigned. Such responsibilities may be shared, when appropriate, among the collaborating agencies.

(2) The college or university shall have responsibility for maintaining fiscal records and ensuring adequate financial support for the professional certificate program.

(3) Instructional, technological, and other needed resources shall be sufficient in scope, breadth, and recency to support the professional certificate program.

[06-02-051, recodified as § 181-78A-530, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 00-03-049, § 180-78A-530, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-530, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-535 Approval standard—Program design. The following requirements shall govern the design of the professional certificate program:

(1) Teacher.

(a) To be eligible to apply for admission to a professional certificate program, a candidate shall hold a contract as a teacher in a public or a state board of education approved private school or state agency providing educational services for students and shall have completed provisional status with a school district under RCW 28A.405.220 or the equivalent with a state board of education-approved private school or state agency providing educational services for students or the candidate provides to the program a letter from the candidate's employing district, state board of education-approved private school, or state agency providing educational services for students, documenting the employer's support for the candidate's full admission to the professional certificate program: Provided, That a candidate for the professional teacher's certificate may enroll in and complete the preassessment seminar described in subsection (4)(a) of this section prior to admission to a professional certificate program.

(b) The professional certificate program must be available to all qualified candidates.

(c) Using the descriptions of practice related to the criteria for the professional certificate, as approved by the state board of education and published by the office of the superintendent of public instruction, which may not be changed without prior state board approval, the professional certificate program shall be developed by a college or university and its professional education advisory board. Additional agencies may participate in the development of the program if the college or university and professional education advisory board so choose.

(d) Each program shall consist of:

(i) A preassessment seminar which considers input from the candidate's "professional growth team" (WAC 180-78A-505 [181-78A-505]), the candidate's past experience, the context in which he/she teaches, information from past annual evaluations if the individual chooses, the candidate's personal and professional goals, his/her self-evaluation, and evidences of the candidate's impact on student learning.

The seminar will culminate in preparation and approval of the candidate's individual professional growth plan designed to provide the candidate with the knowledge and skills needed to demonstrate successfully the standards and criteria required by WAC 180-78A-540 [181-78A-540].

A representative of the college/university and the candidate shall develop the professional growth plan to be reviewed and agreed upon after input from and consultation

and "collaboration" (WAC 180-78A-010(9) [181-78A-010(9)]) with his/her "professional growth team" (WAC 180-78A-010(10) [181-78A-010(10)]).

The individual professional growth plan shall be based on:

(A) An analysis of the instructional context and teaching assignment(s) to determine strategies which the teacher should use to achieve a positive impact on student learning.

(B) An assessment of the candidate's ability to demonstrate successfully the professional certificate standards and criteria.

(C) Specifications of assistance and instructional components needed and any required course work.

(ii) Course work, past and current experience, inservice, continuing education and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill and performance on all criteria required statewide as essential to "effective teaching" as defined in WAC 180-78A-540(1) [181-78A-540(1)].

(iii) Course work, past and current experience, inservice, continuing education and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill and performance on all criteria required statewide as essential to "professional development" as defined in WAC 180-78A-540(2) [181-78A-540(2)].

(iv) Course work, past and current experience, inservice, continuing education and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill and performance on all criteria required statewide as essential to professional contributions as defined in WAC 180-78A-540(3) [181-78A-540(3)].

(v) A culminating seminar in which the candidate presents his/her final documentation and evidence of professional certificate level knowledge, skill and performance; positive impact on student learning; identification of future goals and professional/career interests; and specification of areas for continuing education and development. The candidate must provide multiple forms of evidence which shall include, but are not limited to, the descriptions of practice related to the criteria for the professional certificate as approved by the state board of education and published by the office of the superintendent of public instruction, which may not be changed without prior state board approval.

(vi) Candidates who do not successfully complete a culminating seminar shall receive an individualized analysis of strengths and weaknesses and a plan for appropriate assistance and instruction.

(vii) No limits shall be placed on the number of times a candidate with a valid residency certificate may participate in the culminating seminar.

(2) Principal/program administrator.

(a) To be eligible to apply for enrollment in a professional certificate program, a candidate shall hold a contract as an administrator for which the credential is required in a public school or state board of education approved private school.

(b) The professional certificate program must be available to all qualified candidates.

(c) Using the six knowledge and skills standards, and the standards-based benchmarks as approved by the state board of education and published by the office of the superintendent

dent of public instruction, which may not be changed without state board approval, the professional certificate program shall be developed by a college or university and its professional education advisory board. Additional agencies may participate in the development of the program if the college or university and professional education advisory board so choose.

(d) Each program shall consist of:

(i) A preassessment seminar during which the professional growth plan shall be developed. The plan will be agreed upon after input from and consultation with his/her professional growth team (WAC 180-78A-010 [181-78A-010] (10)(b)). The individual professional growth plan shall be based on an assessment of the candidate's ability to demonstrate six standards at the professional certificate benchmark level (WAC 180-78A-270 [181-78A-270] (2)(b)), performance evaluation data, and an analysis of the administrative context and assignment.

(ii) Formalized learning opportunities, past and current experience, professional development opportunities, and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill, and performance at the professional certificate benchmark level, or above, on all standards as defined in WAC 180-78A-270 [181-78A-270] (2)(b).

(iii) A culminating seminar in which the candidate presents his/her final documentation and evidence of professional certificate level knowledge, skill and performance; positive impact on student learning; development of a professional growth plan that includes the identification of future goals and professional/career interests as well as a five-year plan for professional development designed to meet the requirements for certificate renewal.

(e) Candidates who do not successfully complete a culminating seminar shall receive an individualized analysis of strengths and weaknesses and a plan for assistance.

(f) No limit shall be placed on the number of times a candidate with a valid residency certificate may enroll in the culminating seminar.

(3) Educational staff associate (ESA) - school counselor, school psychologist, school social worker.

(a) To be eligible for enrollment in a professional certificate program, a candidate shall be employed in his/her ESA role in a public school, a state board approved private school, or state agency providing educational services for students.

(b) The professional certificate must be available to all qualified candidates.

(c) Using the knowledge and skills standards in WAC 180-78A-270 [181-78A-270] (5), (7), and (9), and the standards-based benchmarks as approved by the state board of education and published by the office of the superintendent of public instruction, which may not be changed without state board approval, the professional certificate program shall be developed by a college or university and its professional education advisory board. Additional agencies may participate in the development of the program if the college or university and professional education advisory board so choose.

(d) Each program shall consist of:

(i) A preassessment seminar during which the professional growth plan shall be developed. The plan will be agreed upon after input from and consultation with the ESA

candidate's professional growth team (WAC 180-78A-010 [181-78A-010] (10)(c)). The individual's professional growth plan shall be based on an assessment of the candidate's ability to demonstrate the standards at the professional certificate benchmark level in the specific ESA role pursuant to WAC 180-78A-270 [181-78A-270] (5), (7), or (9).

(ii) Formalized learning opportunities, and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill, and performance at the professional certificate benchmark level, or above, on all standards in the specific ESA role as defined in WAC 180-78A-270 [181-78A-270] (5), (7), or (9).

(iii) A culminating seminar in which the candidate presents his/her final documentation and evidence of professional certificate level knowledge, skill, and performance; positive impact on student learning; and specification of areas for continuing education and development.

(e) Candidates who do not successfully complete a culminating seminar shall receive an individualized analysis of strengths and weaknesses and a plan for assistance.

(f) No limit shall be placed on the number of times a candidate with a valid residency certificate may enroll in the culminating seminar.

[06-02-051, recodified as § 181-78A-535, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 05-15-051, § 180-78A-535, filed 7/12/05, effective 8/12/05; 04-21-038, § 180-78A-535, filed 10/15/04, effective 11/15/04. Statutory Authority: RCW 28A.210.160, 03-23-037, § 180-78A-535, filed 11/12/03, effective 12/13/03. Statutory Authority: RCW 28A.410.010, 03-04-024, § 180-78A-535, filed 1/27/03, effective 2/27/03. Statutory Authority: RCW 28A.305.130 and 28A.410.010, 02-18-037, § 180-78A-535, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.410.010, 01-09-004, § 180-78A-535, filed 4/5/01, effective 5/6/01. Statutory Authority: RCW 28A.410.010, 28A.305.130 (1) and (2), 00-18-062, § 180-78A-535, filed 9/1/00, effective 10/2/00; 00-03-049, § 180-78A-535, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-01-174, § 180-78A-535, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-540 Approval standard—Knowledge and skills. (1) Teacher. A successful candidate for the teacher professional certificate shall demonstrate:

(a) The knowledge and skills for effective teaching which ensure student learning by:

(i) Using instructional strategies that make learning meaningful and show positive impact on student learning;

(ii) Using a variety of assessment strategies and data to monitor and improve instruction;

(iii) Using appropriate classroom management principles, processes and practices to foster a safe positive, student-focused learning environment;

(iv) Designing and/or adapting challenging curriculum that is based on the diverse needs of each student;

(v) Demonstrating cultural sensitivity in teaching and in relationships with students, families, and community members;

(vi) Integrating technology into instruction and assessment; and

(vii) Informing, involving, and collaborating with families and community members as partners in each student's educational process including using information about student achievement and performance.

(b) A successful candidate for the professional certificate shall demonstrate the knowledge and skills for professional development by:

(i) Evaluating the effects of his/her teaching through feedback and reflection;

(ii) Using professional standards and district criteria to assess professional performance, and plan and implement appropriate growth activities; and

(iii) Remaining current in subject area(s), theories, practice, research and ethical practice.

(c) A successful candidate for the professional certificate shall demonstrate professional contributions to the improvement of the school, community, and the profession by:

(i) Advocating for curriculum, instruction, and learning environments that meet the diverse needs of each student;

(ii) Participating collaboratively in school improvement activities and contributing to collegial decision making.

(2) **Principal/program administrator.** A successful candidate for the principal/program administrator professional certificate shall demonstrate the knowledge and skills at the professional certificate benchmark levels for the six standards pursuant to WAC 180-78A-270 [181-78A-270] (2)(b).

(3) **Educational staff associate - school counselor, school psychologist, or school social worker.** A successful candidate for the ESA professional certificate shall demonstrate the knowledge and skills at the professional certificate benchmark levels for the standards in the specific ESA role pursuant to WAC 180-78A-270 [181-78A-270] (5), (7), or (9).

[06-02-051, recodified as § 181-78A-540, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 04-24-074, § 180-78A-540, filed 11/30/04, effective 12/31/04. Statutory Authority: RCW 28A.401.010 [28A.410.010]. 04-21-038, § 180-78A-540, filed 10/15/04, effective 11/15/04. Statutory Authority: RCW 28A.305.130 and 28A.410.010. 02-18-037, § 180-78A-540, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 00-03-049, § 180-78A-540, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-78A-540, filed 12/23/98, effective 1/23/99.]

WAC 181-78A-700 First peoples' language/culture certification pilot program—Findings, purposes and intent—Definitions—Pilot program established—Tribal eligibility to participate—Pilot program requirements—Assignment of teachers—Reports. (1) **FINDINGS.** The state board of education endorses the following:

(a) Teaching first peoples' languages can be a critical factor in successful educational experiences and promoting cultural sensitivity for all students. The effect is particularly strong for native American students;

(b) First peoples' languages are falling silent. Despite tribal efforts, first peoples' languages are not fully incorporated into the school systems. This is a loss to the cultural heritage of the affected tribes and to the cultural resources of Washington state;

(c) Recognition of native American languages under RCW 28A.230.090(3) and 28B.80.350(2), as satisfying state or local graduation requirements and minimum college admission requirements, while concentrating on promoting a positive impact on student learning through state policies, is

insufficient to meet the educational needs of native American students;

(d) The potential to have a positive impact on student learning is in part dependent on the willingness of the local education agency to collaborate with the sovereign tribal government's language/culture program;

(e) It is within the statutory authority of the state board of education to enhance the learning opportunities for all students by helping prevent the loss of first peoples' languages through assisting the state's sovereign neighbors to sustain, maintain or recover their linguistic heritage, history and culture;

(f) From the Multi-Ethnic Think Tank position statement, June 2001:

(i) "...A culturally inclusive pedagogy will ensure the success of all students, who will develop greater appreciation of other cultures and worldviews;"

(ii) "All students have prior experiences that frame their worldview; learn from childbirth and are lifelong learners; can academically achieve at high levels when they are appropriately taught; and are entitled to learn in a multicultural context;"

(g) Research has shown that students who study another language may benefit in the following ways: Greater academic success in other areas of study, including reading, social studies, and mathematics; a clearer understanding of the English language including function, vocabulary and syntax; and an increase on standardized test scores, especially in verbal areas;

(h) From the Native American Languages Act, Public Law 101-477, Section 102, 1990:

(i) "The traditional languages of Native Americans are an integral part of their cultures and identities and form the basic medium for the transmission, and thus survival, of Native American cultures, literatures, histories, religions, political institutions, and values;"

(ii) "Languages are the means of communication for the full range of human experiences and are critical to the survival of cultural and political integrity of any people"; and

(i) There are many sovereign tribal nations in the state of Washington and they serve the needs of many groups of first peoples, each possessing unique languages, cultures and worldviews.

(2) **PURPOSES.** The purpose of this section is to establish a pilot program to accomplish the following goals:

(a) To honor the sovereign status of tribal governments in their sole expertise in the transmission of their indigenous languages, heritage, cultural knowledge, customs, traditions and best practices for the training of first peoples' language/culture teachers;

(b) Contribute to a positive impact on student learning by promoting continuous improvement of student achievement of the sovereign tribal government's language/culture learning goals, as established by each sovereign tribal government's language/culture program, and by supporting the goals for multicultural education included in the 2001 position statement developed by the Washington state Multi-Ethnic Think Tank;

(c) Contribute to the preservation, recovery, revitalization, and promotion of first peoples' languages and cultures;

(d) Meaningfully acknowledge that language is inherently integral to native American culture and ways of life;

(e) Implement in a tangible way the spirit of the 1989 Centennial Accord between Washington state and the sovereign tribal governments in the state of Washington.

(f) Provide a mechanism for the state board of education to recognize tribally qualified language/culture teachers as eligible to receive a Washington state first peoples' language/culture teaching certificate; and

(g) Provide the opportunity for native American students to learn first peoples' languages and cultures while at school and provide another avenue for students to learn core curricula through first peoples' worldviews.

(3) **INTENT.** It is the intent of the state board of education to work in collaboration with the sovereign tribal governments of Washington state to establish a Washington state first peoples' language/culture teacher certification program on a pilot basis in order to:

(a) Act in a manner consistent with the policy as specified in the Native American Languages Act, P.L. 101-477 Sec. 104(1) "preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages";

(b) Act in a manner consistent with Washington state's government-to-government relationship with Washington state sovereign tribal governments and use the Washington state first peoples' language/culture certification pilot programs to model effective government-to-government relationships;

(c) Act in a manner consistent with the goal of the state Basic Education Act under RCW 28A.150.210;

(d) Act in a manner consistent with the following purposes of Public Law 107-110, "No Child Left Behind Act":

(i) "Holding schools, local education agencies, and States accountable for improving the academic achievement of all students, and identifying and turning around low-performing schools that have failed to provide a high-quality education to their students, while providing alternatives to students in such schools to enable the students to receive a high-quality education," [Sec. 1002(4)];

(ii) "Providing children an enriched and accelerated educational program, including the use of schoolwide programs or additional services that increase the amount and quality of instructional time," [Sec. 1002(8)];

(iii) "Promoting schoolwide reform and ensuring the access of children to effective, scientifically based instructional strategies and challenging academic content," [Sec. 1002(9)];

(iv) "...Supporting local education agencies, Indian tribes, organizations, postsecondary institutions and other entities to meet the unique education, culturally related academic needs of American Indian and Alaskan Native Students" [Sec. 7102(a)];

(e) Act on its involvement with and adoption of the 1991 joint policy statement on Indian education:

"K-12 American Indian dropout prevention is a priority of schools. Effective education needs to be implemented throughout the K-12 school system if the American Indian student is to achieve academic and personal success";

(f) Acknowledge that there is a public responsibility to make available to all students in the state of Washington an

accurate and balanced study of the American Indian experiences with and contributions to life on this continent;

(g) Act on the following state board beliefs:

(i) In order to meet the needs of all students, highly qualified teachers are required;

(ii) All state board of education policies and activities should meet the needs of the state's diverse student population;

(iii) In order for all students to achieve at high levels, multiple learning styles and needs must be supported; and

(h) Act on the following goals from the state board's 2002-05 work plan:

(i) Professional education and certification requirements are aligned with education reform and support a positive impact on student learning;

(ii) All students shall be provided equitable educational opportunities.

(4) DEFINITIONS.

(a) "Positive impact on student learning" shall mean:

(i) The same as under WAC 180-78A-010(8) [181-78A-010(8)] and 180-16-220 (2)(b); and

(ii)(A) Supporting the goal of basic education under RCW 28A.150.210, "...to provide students with the opportunity to become responsible citizens, to contribute to their own economic well-being and to that of their families and communities, and to enjoy productive and satisfying lives...";

(B) Promoting continuous improvement of student achievement of the state learning goals and the sovereign tribal government's language/culture learning goals as established by each sovereign tribal government's language/culture program;

(C) Recognizing nonacademic student learning and growth related, but not limited, to: Oral traditions, community involvement, leadership, interpersonal relationship skills, teamwork, self-confidence, resiliency, and strengthened unique cultural identities;

(iii) Developing greater appreciation of other cultures and worldviews;

(b) A "culturally sensitive environment" honors the unique history, culture, values, learning styles, and community of the student. For example, to demonstrate the value of the language and culture, the homeroom teacher participates in the language/culture classroom. A "culturally sensitive environment" also includes those provisions as outlined in the Washington state joint policy on equity in education, revised in May 2000.

(c) For the purpose of this section, "highly qualified teachers" shall mean those teachers who meet the standards of the sovereign tribal government's language/culture program.

(5) PILOT PROGRAM ESTABLISHED. A Washington state first peoples' language/culture teacher certification program is established in February 2003 and will continue through the 2005-06 school year. At the end of the 2005-06 school year, the program will be extended, modified or made permanent, as determined by the state board of education in consultation with participating sovereign tribal governments.

(6) TRIBAL ELIGIBILITY TO PARTICIPATE. Any sovereign tribal government in the state of Washington shall be eligible to participate individually on a government-to-government basis in the pilot program.

(7) PROJECT REQUIREMENTS.

(a) Each sovereign tribal government will appoint and certify individuals who meet the tribe's criteria for certification as instructors in the Washington state first peoples' language/culture pilot program.

(b) Each sovereign tribal government's language/culture project shall submit to the state board of education the following information for each eligible language/culture teacher desiring to participate in the pilot project:

(i) Written documentation that each designated teacher has completed the sovereign tribal government's language/culture teacher certification program;

(ii) Written documentation that each designated teacher has completed the background check required under RCW 28A.410.010 and WAC 180-79A-150 [181-79A-150] (1) and (2);

(iii) Written documentation that each designated teacher has completed a course on issues of abuse as required by RCW 28A.410.035 and WAC 180-79A-030(6) [181-79A-030(6)];

(iv) Designation of which language(s), or dialects thereof, shall be listed on the Washington state first peoples' language/culture certificate;

(c) After meeting the requirements of subsection (8)(b) of this section and receiving state board of education approval, the office of the superintendent of public instruction shall issue each teacher a Washington state first peoples' language/culture teaching certificate;

(d) To support a positive impact on student learning, the local education agency in consultation with the sovereign tribal government's language/culture program is strongly encouraged to provide:

(i) A minimum of one contact hour per day, five days a week;

(ii) Access to the same students from year to year, to the extent possible, so that students who receive instruction during the first year of the project can continue to receive instruction throughout the three years of the project;

(iii) A culturally sensitive environment as defined in subsection (4)(b) of this section; or

(iv) Some combination of (d)(i), (ii), and (iii) of this subsection which will allow a positive impact on student learning;

(e) To support a positive impact on student learning, the sovereign tribal government's language/culture program will provide written documentation of how teaching the first peoples' language/culture has supported the promotion of continuous improvement of student achievement of the program learning goals as established by each sovereign tribal government's language/culture program;

(f) To support a greater understanding of the government-to-government relationship, the professional development and certification committee of the state board of education and the professional educator standards board are strongly encouraged to make site visits and attend meetings with the local education agency and the sovereign tribal government's language/culture program;

(g) Nothing in this section shall be interpreted as precluding any eligible tribe in consultation with the state or in consultation with any local education agency from entering into an inter-governmental agreement or compact related to

the teaching of first peoples' languages and cultures in order to address unique issues related to individual sovereign tribal governments.

(8) ASSIGNMENT OF TEACHERS.

(a) The holder of a Washington state first peoples' language/culture teacher certificate shall be deemed qualified to be a teacher of first peoples' language/culture with the ability to meet individual tribal competency criteria for language/culture, history, and English.

(b) A Washington state first peoples' language/culture teacher certificate qualifies the holder to accept a teaching position in a public school district.

(c) The holder of a Washington state first peoples' language/culture teacher certificate who does not also hold an initial or residency certificate shall be assigned to teach only the language(s)/culture(s) designated on the certificate, and no other subject.

(d) The Washington state first peoples' language/culture teacher certificate is recognized by the state of Washington for as long as the teacher holds a valid language/culture certificate from a participating sovereign tribal government.

(e) A Washington state first peoples' language/culture teacher certificate will serve as the endorsement in first peoples' language/culture for anyone holding an initial or residency certificate.

(9) REPORTS.

(a) Annually, for the duration of the pilot program, each participating tribe shall submit a report to the state board of education with documentation of how its particular project is having a positive impact on student learning.

(b) Not later than October 31, 2006, the professional development and certification committee of the state board of education, in consultation with the participating sovereign tribal governments and the professional educator standards board, shall create and submit a report to the state board of education with the following information:

(i) An end of program analysis of the positive impact on student learning of each pilot project;

(ii) An appraisal of the government-to-government relationships established under the program, at both the state and local levels; and

(iii) The report shall include a recommendation on whether to extend, modify or make permanent the Washington state first peoples' language/culture teacher certification pilot program.

[06-02-051, recodified as § 181-78A-700, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 and 28A.410.010. 03-04-026, § 180-78A-700, filed 1/27/03, effective 2/27/03.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

Chapter 181-79A WAC

**STANDARDS FOR TEACHER, ADMINISTRATOR,
AND EDUCATIONAL STAFF ASSOCIATE
CERTIFICATION**

WAC

181-79A-003	Authority.
181-79A-006	Purpose.
181-79A-007	Public policy purposes of state board of education performance-based certification system.
181-79A-011	Knowledge and skill requirements of the performance-based certification system—Teachers.

181-79A-030	Definitions.	181-79A-350	English—Subject area endorsement.
181-79A-105	Equivalency of standards.	181-79A-352	English as a second language—Subject area endorsement.
181-79A-110	Denial of application for certification or endorsement by approved professional preparation training institutions.	181-79A-354	English/language arts—Broad subject area endorsement.
181-79A-115	Validity date.	181-79A-356	Geography—Subject area endorsement.
181-79A-117	Uniform expiration date.	181-79A-358	Health—Subject area endorsement.
181-79A-120	Certificate replacement.	181-79A-360	History—Subject area endorsement.
181-79A-123	Certificates—Previous standards.	181-79A-362	Family and consumer sciences education (formerly home and family life education)—Subject area endorsement.
181-79A-124	Application for certification.	181-79A-364	Technology education (formerly industrial arts)—Subject area endorsement.
181-79A-127	Renewal of certificate.	181-79A-366	Marketing education—Subject area endorsement.
181-79A-128	Temporary permits.	181-79A-368	Journalism—Subject area endorsement.
181-79A-130	Fee for certification.	181-79A-370	Learning resources—Subject area endorsement.
181-79A-131	Use of fee for certification.	181-79A-372	Mathematics—Subject area endorsement.
181-79A-140	Types of certificates.	181-79A-374	Music—Broad subject area endorsement.
181-79A-145	Levels of certificates, initial/residency and continuing/professional.	181-79A-376	Choral music—Subject area endorsement.
181-79A-150	General requirements—Teachers, administrators, educational staff associates.	181-79A-378	Instrumental music—Subject area endorsement.
181-79A-155	Good moral character and personal fitness—Necessary supporting evidence by applicants.	181-79A-379	Philosophy—Subject area endorsement.
181-79A-157	Affidavits from applicants.	181-79A-380	Physical education—Subject area endorsement.
181-79A-206	Academic and experience requirements for certification—Teachers.	181-79A-382	Physics—Subject area endorsement.
181-79A-211	Academic and experience requirements for certification—Administrators.	181-79A-384	Political science—Subject area endorsement.
181-79A-213	Issues of abuse course work requirement for continuing certification—Administrators.	181-79A-386	Psychology—Subject area endorsement.
181-79A-221	Academic and experience requirements for certification—School counselors, school psychologists, and school social workers.	181-79A-388	Reading—Subject area endorsement.
181-79A-223	Academic and experience requirements for certification—School nurse, school occupational therapist, school physical therapist and school speech-language pathologist or audiologist.	181-79A-390	Science—Broad subject area endorsement.
181-79A-226	Issues of abuse course work requirement for continuing or professional certification—Educational staff associate.	181-79A-392	Sociology—Subject area endorsement.
181-79A-231	Limited certificates.	181-79A-394	Social studies—Broad subject area endorsement.
181-79A-250	Initial/residency and continuing/professional certificates—Renewal, reinstatement, and continuing education requirements.	181-79A-396	Special education—Subject area endorsement.
181-79A-253	Reinstatement of certificates.	181-79A-398	Speech—Subject area endorsement.
181-79A-255	Certification of out-of-state trained educational personnel—Interstate educational personnel contracts.		
181-79A-257	Out-of-state candidates.		
181-79A-260	Establishing equivalency for course work, degrees and programs completed in countries outside the United States.		
181-79A-270	Teacher, principal, and educational staff associate exchange permits.		
181-79A-299	Transition policies.		
181-79A-300	Certificate endorsement.		
181-79A-302	Authorized endorsement for teachers.		
181-79A-304	Minimum preparation for endorsements for teachers.		
181-79A-306	Subject area endorsement recommendations by colleges and universities.		
181-79A-308	Endorsement by examination.		
181-79A-310	Subject area endorsements through SPI.		
181-79A-312	Award of college or university credit hours for experience.		
181-79A-315	In-service in lieu of college and university credit hours.		
181-79A-317	Evaluation of in-service in lieu of college and university credit hours by PEAC.		
181-79A-320	Agriculture education—Subject area endorsements.		
181-79A-322	Anthropology—Subject area endorsement.		
181-79A-324	Art—Subject area endorsement.		
181-79A-326	Bilingual education—Subject area endorsement.		
181-79A-328	Biology—Subject area endorsement.		
181-79A-330	Business education—Subject area endorsement.		
181-79A-332	Chemistry—Subject area endorsement.		
181-79A-333	Comparative religion—Subject area endorsement.		
181-79A-334	Instructional technology (formerly computer science)—Subject area endorsement.		
181-79A-336	Designated foreign language—Subject area endorsement.		
181-79A-338	Drama—Subject area endorsement.		
181-79A-340	Early childhood education, regular—Subject area endorsement.		
181-79A-342	Early childhood education, special education—Subject area endorsement.		
181-79A-344	Earth science—Subject area endorsement.		
181-79A-346	Economics—Subject area endorsement.		
181-79A-348	Elementary education—Subject area endorsement.		

WAC 181-79A-003 Authority. The authority for this chapter is RCW 28A.410.010 which authorizes the state board of education to establish, publish, and enforce rules and regulations determining eligibility for the certification of personnel employed in the common schools of this state. This authority is supplemented by RCW 28A.305.130(5) which authorizes the state board of education to specify the types and kinds of certificates necessary for the several departments within the common schools. (Note: RCW 28A.195.010 (3)(a) requires most private school classroom teachers to hold appropriate state certification with few exceptions.)

[06-02-051, recodified as § 181-79A-003, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 97-04-088, § 180-79A-003, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-006 Purpose. The purposes of this chapter are:

(1) To establish a performance-based certification system to be fully implemented for all teacher candidates applying for the residency certificate after August 31, 2000, and for all teacher candidates applying for the professional certificate after August 31, 2001. A performance-based certification system shall be fully implemented for all principals/program administrators applying for the residency certificate after August 31, 2004, and for all principal/program administrator candidates applying for the professional certificate after August 31, 2006. A performance-based professional certificate system shall be fully implemented for school psychologists, school counselors, and school social workers applying for the residency certificate after August 31, 2005, and for the professional certificate after August 31, 2007.

(2) To establish the various certificates which must be held as a condition to employment in the Washington school system. The performance-based certification system shall include the issuance of a residency certificate, a professional certificate, and other certificates which the state board of education may add in the future.

(3) To establish the conditions and procedures governing issuance and retention of those and other certificates, including endorsements thereon.

[06-02-051, recodified as § 181-79A-006, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 04-20-091, § 180-79A-006, filed 10/5/04, effective 11/5/04; 00-03-048, § 180-79A-006, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-006, filed 12/23/98, effective 1/23/99.]

WAC 181-79A-007 Public policy purposes of state board of education performance-based certification system. The policy purposes of state board of education performance-based certification system are:

(1) To provide qualified educators for the emerging performance-based P-12 education system.

(2) To assure that practitioners are more directly involved in decisions related to professional practice.

(3) To recognize that there is a distinction between the level of competence of beginning educators and the competency of educators who have been able to demonstrate their competencies at a professional level.

(4) To assure that all educators demonstrate their competencies before attaining the status of a professional educator.

(5) To establish a certificate level that recognizes service at a high level of achievement.

(6) To establish a certification system that provides for continuing support and developmental assistance to individuals as they progress toward professional certification.

(7) To prepare educators who are able to assess their professional growth and achievement in light of their impact on student learning.

[06-02-051, recodified as § 181-79A-007, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 00-03-048, § 180-79A-007, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-007, filed 12/23/98, effective 1/23/99.]

WAC 181-79A-011 Knowledge and skill requirements of the performance-based certification system—Teachers. Each of the knowledge and skills required for the preparation and certification of teachers shall relate to one or more of the following three standards that all teachers will be required to demonstrate: Effective teaching, professional development, and professional contributions. The emphasis in the preservice preparation programs shall be on effective teaching; the emphasis in the program for the professional certificate shall be divided among each of the three categories; during the remainder of the teacher's career, the emphasis should be on professional development and professional contributions.

[06-02-051, recodified as § 181-79A-011, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 [28A.410.010], 05-15-054, § 180-79A-011, filed 7/12/05, effective 8/12/05. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-011, filed 12/23/98, effective 1/23/99.]

WAC 181-79A-030 Definitions. The following definitions shall apply to terms used in this chapter:

(1) The terms, "program approval," "endorsement," "interstate compact," "college or university," and "regionally accredited institution of higher education," as defined in

WAC 180-78-010 and 180-78A-010 [181-78A-010] shall apply to the provisions of this chapter.

(2) "Certificate" means the license issued by the superintendent of public instruction to teachers, administrators, and educational staff associates verifying that the individual has met the requirements set forth in this chapter.

(3) "Certificate renewal" means the process whereby the validity of a certificate, subject to expiration, is extended or regained.

(4) "Classroom teaching" means instructing pupils in an instructional setting.

(5) "Approved baccalaureate degree" for the purpose of this chapter, means a baccalaureate from a regionally accredited college or university in any of the subject areas of the endorsement listed in chapter 180-82 [181-82] WAC as now or hereafter amended: Provided, That if a candidate is accepted into a program in Washington state on or before August 31, 2000, and completes the program on or before August 31, 2003, in accordance with WAC 180-79A-299 [181-79A-299], the candidate may hold a baccalaureate degree in any of the subject areas of the endorsements listed in WAC 180-79A-302 [181-79A-302]. Such degrees shall require the completion of at least forty-five quarter hours (thirty semester hours) of course work in the subject area: Provided, That a candidate who holds a baccalaureate degree in another academic field will not be required to obtain a second baccalaureate degree if the candidate provides evidence to the superintendent of public instruction that he or she has completed the required forty-five quarter or thirty semester hours of course work in one of the subject areas of the endorsements listed in chapter 180-82 [181-82] WAC: Provided further, That a candidate who holds a baccalaureate degree in early childhood education, elementary education, or special education will not be required to obtain a second baccalaureate degree if the candidate provides evidence to the superintendent of public instruction that he or she has completed thirty quarter or twenty semester credit hours in one academic field in an approved endorsement area pursuant to WAC 180-82A-202 [181-82A-202].

(6) "Issues of abuse course work requirement" means completion of course work or an in-service program on issues of abuse. The content shall discuss the identification of physical, emotional, sexual, and substance abuse, information on the impact of abuse on the behavior and learning abilities of students, discussion of the responsibilities of a teacher to report abuse or provide assistance to students who are victims of abuse, and methods for teaching students about abuse of all types and their prevention.

(7) "Approved master's degree" for the purpose of this chapter, means a master's or doctorate degree from a regionally accredited college or university.

(8) "Credit hour(s)" means credit (normally 100 level or above) awarded by a regionally accredited institution of higher education.

(9) "Previous standards" means a certification system in place prior to a revision in rules that results in changed names and/or validity periods for the certificates issued.

(10) "Application for certification" means an application for a certificate or endorsement that includes a signed affidavit (as specified in WAC 180-79A-157 [181-79A-157]) by the applicant. Such application shall be considered valid for

two years from the date of receipt by the superintendent of public instruction, or its designee.

[06-02-051, recodified as § 181-79A-030, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 05-04-055, § 180-79A-030, filed 1/28/05, effective 2/28/05; 04-04-011, § 180-79A-030, filed 1/23/04, effective 2/23/04; 02-04-015, § 180-79A-030, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010, 28A.305.130 (1) and (2), 01-03-153, § 180-79A-030, filed 1/24/01, effective 2/24/01; 99-23-023, § 180-79A-030, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-01-174, § 180-79A-030, filed 12/23/98, effective 1/23/99.]

WAC 181-79A-105 Equivalency of standards. Reasonable flexibility in interpretation of the requirements for certification may be applied consistent with the intent and spirit of the requirements of the appropriate chapter. An annual report of the use of this rule shall be submitted to the state board of education by the superintendent of public instruction.

[06-02-051, recodified as § 181-79A-105, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2), 99-23-023, § 180-79A-105, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.410.010, 97-04-088, § 180-79A-105, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-110 Denial of application for certification or endorsement by approved professional preparation training institutions. Any person whose application for certification or for an endorsement is denied by an institution of higher education within the state with an approved professional preparation program, after exhausting any appeal procedures established by such institution, may apply directly to the superintendent of public instruction for such certificate or endorsement.

[06-02-051, recodified as § 181-79A-110, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 97-04-088, § 180-79A-110, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-115 Validity date. The validity date of a certificate or permit shall be the actual date of issuance.

[06-02-051, recodified as § 181-79A-115, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 97-04-088, § 180-79A-115, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-117 Uniform expiration date. (1) All certificates issued for one or more stated years shall expire on June 30 of the stated year and shall be calculated as follows:

(a) Certificates issued prior to June 30 of a calendar year, other than limited certificates issued pursuant to WAC 180-79A-231 [181-79A-231], shall have the expiration date of the certificate calculated on the basis such certificate was issued on June 30 of the same calendar year regardless of the date of issuance.

(b) Certificates issued July 1 or later in the calendar year, other than limited certificates issued pursuant to WAC 180-79A-231 [181-79A-231], shall have the expiration date of the certificate calculated on the basis such certificate was issued on June 30 of the next calendar year regardless of the date of issuance.

(c) All valid existing certificates scheduled to expire on August 31 of a given year shall be valid until June 30 of the following year.

[2006 WAC Supp—page 354]

(2) An applicant who holds a valid certificate, who submits an application for further certification prior to the expiration date of that certificate, and who meets all the requirements of WAC 180-79A-128 [181-79A-128], shall be granted a one hundred eighty-day permit as provided in chapter 180-79A [181-79A] WAC.

(3) Any educator in the National Guard, U.S. military branch reserves, or U.S. Coast Guard reserve who is called up to active duty by one of the U.S. military branches by order of an authorized agency or official of Washington state government, or by the U.S. Department of Homeland Security for more than thirty consecutive days shall be granted an extension of the expiration date of his/her certificate. The extension shall be equal to the length of active duty service calculated to the next uniform expiration date.

[06-02-051, recodified as § 181-79A-117, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130, 04-04-088, § 180-79A-117, filed 2/3/04, effective 3/5/04. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4), 03-14-120, § 180-79A-117, filed 6/30/03, effective 7/31/03; 02-04-018, § 180-79A-117, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-01-174, § 180-79A-117, filed 12/23/98, effective 1/23/99. Statutory Authority: RCW 28A.410.010, 98-05-024, § 180-79A-117, filed 2/6/98, effective 3/9/98; 97-04-088, § 180-79A-117, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-120 Certificate replacement. The superintendent of public instruction shall issue a replacement certificate to any person who files an application, pays the appropriate certification fee, and verifies by signature that the original certificate has been lost or destroyed or that a legal name change has occurred.

[06-02-051, recodified as § 181-79A-120, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 97-04-088, § 180-79A-120, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-123 Certificates—Previous standards. (1) Certificates issued under previous standards which were issued for a specific term shall continue to be effective for that term.

(2) Certificates issued under previous standards which were issued for an indefinite period shall continue to be in effect.

(3) All persons who hold any standard teacher, administrator, or specialized personnel certificate issued under previous standards of the state board of education shall be issued a continuing certificate at such time as it is necessary for them to reissue a standard certificate or on application and payment of the fee as specified in WAC 180-79A-130 [181-79A-130].

(4) Any person who holds a provisional principal's or provisional superintendent's certificate under previous standards of the state board of education shall be issued upon application, including payment of applicable fees, a continuing administrator's certificate for the appropriate role and such certificates shall be subject to the continuing education requirements of chapter 180-85 [181-85] WAC.

(5) Any person holding a provisional certificate as a school nurse under provisions of chapter 180-84 WAC shall be granted a continuing certificate.

(6) All persons who hold a valid initial certificate granted under previous standards of the state board of educa-

tion shall be authorized to meet requirements for continuing certification as set forth in the relevant previous standards except as noted below in subsections (7), (8) or (9) of this section.

(7) Any person with a valid initial teacher's certificate granted under previous standards of the state board of education may renew that certificate once after August 31, 2000. The individual shall meet requirements for and apply for the continuing certificate by the expiration date on the renewed certificate or meet requirements for the residency certificate for further certification: Provided, That any person who qualified for initial renewal or continuing certificate under the provisions of WAC 180-79A-250 [181-79A-250] (1)(a) prior to their expiration date, but whose initial certificate expired after August 31, 2000, because they applied for certification too late, may apply once for such renewal or continuing certificate and will be issued such certificate.

(8) Any person with a valid initial administrator certificate granted under previous standards of the state board of education shall meet requirements for and apply for the continuing certificate by the expiration date on the initial certificate or meet requirements for the residency certificate for further certification: Provided, That any person who qualified for a continuing certificate under the provisions of WAC 180-79A-250 [181-79A-250] (1)(b) prior to their expiration date, but whose initial certificate expired after June 30, 2004, because they applied for certification too late, may apply for such continuing certificate and will be issued such certificate.

(9) Any person with a valid initial ESA certificate granted under previous standards of the state board of education shall meet requirements for and apply for the continuing certificate by the expiration date on the initial certificate or meet requirements for the residency certificate for further certification: Provided, That any person who qualified for a continuing certificate under the provisions of WAC 180-79A-250 [181-79A-250] (1)(c) prior to their expiration date, but whose initial certificate expired after June 30, 2005, because they applied for certification too late, may apply for such continuing certificate and will be issued such certificate.

[06-02-051, recodified as § 181-79A-123, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 05-23-043, § 180-79A-123, filed 11/9/05, effective 12/10/05; 05-15-050, § 180-79A-123, filed 7/12/05, effective 8/12/05; 00-09-048, § 180-79A-123, filed 4/14/00, effective 5/15/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-123, filed 12/23/98, effective 1/23/99.]

WAC 181-79A-124 Application for certification. An individual who applies for a Washington state certificate, unless seeking reinstatement pursuant to WAC 180-79A-253 [181-79A-253] or renewal pursuant to WAC 180-79A-127 [181-79A-127] or unless otherwise stipulated by the provisions of WAC 180-79A-123 [181-79A-123] must meet the requirements in effect at the time of application.

[06-02-051, recodified as § 181-79A-124, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 28A.305.130 (1) and (2). 01-03-153, § 180-79A-124, filed 1/24/01, effective 2/24/01. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-124, filed 12/23/98, effective 1/23/99.]

WAC 181-79A-127 Renewal of certificate. A holder of a certificate subject to expiration may renew such certifi-

cate subject to the rules in effect at the time of such renewal, unless otherwise stipulated by the provisions of WAC 180-79A-123 [181-79A-123].

[06-02-051, recodified as § 181-79A-127, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.010.410. 03-15-121, § 180-79A-127, filed 7/22/03, effective 8/22/03. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-127, filed 12/23/98, effective 1/23/99.]

WAC 181-79A-128 Temporary permits. Temporary permits may be issued by the superintendent of public instruction and designated agents under the following conditions:

(1) Temporary permits may be issued under this section to those persons who have filed an application for a certificate; who, based on available documentation, including affidavits or other evidence that appears reliable which substantiates the existence of missing documentation, appear to have completed all requirements for certification; and who do not disclose any information which indicates that such applicant fails to meet the character requirement of WAC 180-79A-150(2) [181-79A-150(2)].

(2) An individual may apply for a permit directly to the superintendent of public instruction or designated agents—i.e., educational service districts or Washington state institutions of higher education.

(3) A permit entitles the holder to serve as a teacher, educational staff associate or administrator consistent with the endorsement(s) on his/her permit.

(4) A permit is valid for one hundred eighty consecutive calendar days unless prior to the expiration date the superintendent of public instruction determines the applicant is ineligible to receive a valid certificate or endorsement. In such cases, the temporary permit shall expire on the date notice of cancellation is received by the applicant and/or the employer.

(5) The temporary permit may be reissued only upon demonstration that the applicant has made a good faith effort to secure the missing documentation.

(6) Issuing authority. The superintendent of public instruction either directly or through a designated agent shall issue all permits and shall provide institutions of higher education and educational service districts with forms and instructions relevant to application for a permit.

[06-02-051, recodified as § 181-79A-128, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-128, filed 12/23/98, effective 1/23/99.]

WAC 181-79A-130 Fee for certification. (1) In accordance with provisions of RCW 28A.410.060 and 28A.415.010, the fee for certificates which are valid for more than one year, issued by authority of the state of Washington and authorizing the holder to serve in the common schools of the state, shall be as follows:

(a) The first issue of the residency certificate, thirty-five dollars;

(b) The continuing certificate, seventy dollars;

(c) The reinstatement, additional endorsement on the teaching certificate, duplicate certificates, substitute certificates, and certificates issued for the purpose of showing a name change, fifteen dollars; and

(d) Any other certificate or credential or any renewal thereof, five dollars for each year of validity:

(e) Provided, That the fee for all career and technical education certificates shall be one dollar:

(f) Provided, That a one-time late fee for a renewed initial or continuing certificate issued under the provisions of WAC 180-79A-123 [181-79A-123] (7), (8), or (9) for those whose initial certificate had already expired shall be one hundred dollars.

(2) The fee for any other certificate/credential, or for any renewal thereof, issued by the authority of the state of Washington and authorizing the holder to serve in the common schools of the state, shall be five dollars.

(3) Officials authorized to collect certification fees are educational service district superintendents, local school district superintendents, deans and directors of education at colleges and universities, or their designees. The fee must accompany the application for a certificate and shall be transmitted by the receiving district, college or university, or program unit designee at least quarterly to the educational service district within which the application is filed for disposition in accordance with provisions of RCW 28A.410.060. The fee shall not be refunded unless the application is withdrawn before it is finally considered (i.e., the issuance of a certificate or a written communication denying such issuance) by the superintendent of public instruction or his or her designee. Fees not refunded shall apply as credit toward certificate fees if such applicant reapplies within twenty-four months of the date of denial. Moneys accrued from certification fees within the boundaries of an educational service district shall be divided in the following manner:

(a) Local school districts employing more than one hundred teachers and other professional staff and collecting certification fees may retain one dollar of each fee in order to hold a professional training institute. If such district does not hold an institute, all such moneys shall be placed to the credit of the educational service district.

(b) No less than fifty percent of the funds accruing within the boundaries of an educational service district shall be used to support program activities related to statewide precertification professional preparation and evaluation.

(c) The remaining funds shall be used to support professional in-service training programs and evaluations thereof.

(d) Use of certification fees described in this section shall be reported annually to the state board of education pursuant to WAC 180-79A-131(5) [181-79A-131(5)].

[06-02-051, recodified as § 181-79A-130, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 05-23-043, § 180-79A-130, filed 11/9/05, effective 12/10/05. Statutory Authority: RCW 28A.410.010 and 28A.305.130, 05-15-024, § 180-79A-130, filed 7/7/05, effective 8/7/05. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4), 02-04-018, § 180-79A-130, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010, 01-09-005, § 180-79A-130, filed 4/5/01, effective 5/6/01; 00-03-048, § 180-79A-130, filed 1/14/00, effective 2/14/00; 97-04-088, § 180-79A-130, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-131 Use of fee for certification. (1) Certification fees will be used solely for precertification preparation, professional in-service training programs, teachers' institutes and/or workshops, and evaluations thereof in accordance with this chapter.

(2) Precertification preparation:

(a) The primary utilization shall be to support collaborative efforts essential to program development, program evaluation, and assessment of candidates' entry and exit competency.

(b) Funds set aside for precertification shall not supplant funds already available to any participating agency.

(c) A single educational service district shall be designated to administer the funds allocated for precertification programs. The designated educational service district shall be permitted to retain a percentage of the precertification fees at a rate to be negotiated by the superintendent of public instruction and the educational service district for costs related to administering these funds.

(d) Each quarter every educational service district shall forward the moneys designated for precertification programs to the educational service district designated to administer such programs.

(3) Professional in-service training programs and teachers' institutes and/or workshops:

(a) Each educational service district, or cooperative thereof as specified in (d) of this subsection, shall establish an in-service committee composed of an educational service district representative; at least one district superintendent; one principal; one educational staff associate; one elementary, one junior high and one senior high teacher; one representative from the elementary or secondary level of private schools within the educational service district; and one representative selected by the chief administrative officer responsible for professional education from a college/university having a state board of education approved teacher education program. Teacher representatives shall be selected by agreement among the presidents of the local education associations within the respective educational service district or cooperative thereof.

(b) The educational service district representative shall serve as chairperson of the in-service committee and provide liaison with the superintendent of public instruction and the state board of education.

(c) The in-service committee will be responsible for coordinating in-service/staff development model programs within the educational service district and shall submit to the superintendent of public instruction and the state board of education a plan for soliciting and selecting model programs which shall include procedures for conducting needs assessments, determining priorities and carrying out program evaluation.

(d) Cooperative agreements may be made among educational service districts to provide quality in-service education programs.

(e) Funds designated for in-service programs shall not supplant funds already available for such programs.

(4) Allowable expenditures. Funds may be used to support costs related to training, such as the payment of professional contractual services, per diem, travel costs, materials, printing, or released time. Nonallowable costs are college/university tuition and fees.

(5) Annual reporting. The superintendent of public instruction shall prepare and present to the state board of education an annual report concerning the use of certification fees for precertification and in-service activities.

[06-02-051, recodified as § 181-79A-131, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 and 28A.410.010. 02-18-037, § 180-79A-131, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-131, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-140 Types of certificates. Six types of certificates shall be issued:

(1) Teacher. The teacher certificate, including teacher exchange permits as provided in WAC 180-79A-220 [181-79A-220], authorizes service as a classroom teacher.

(2) Career and technical. The career and technical education certificate authorizes service in career and technical education programs in accordance with the provisions of chapter 180-77 [181-77] WAC.

(3) First people's language/culture. The first people's language/culture teacher certificate authorizes service as defined under WAC 180-78A-700(8) [181-78A-700(8)].

(4) Administrator.

(a) The administrator certificate for principal authorizes services as a building administrator or assistant principal.

(b) The administrator certificates for superintendent or program administrator will be issued to persons who meet state board of education certification standards for service in the roles of superintendent or program administrator.

(5) Educational staff associate. The educational staff associate certificate authorizes service in the roles of school speech pathologists or audiologists, school counselors, school nurses, school occupational therapists, school physical therapists, school psychologists, and school social workers: Provided, That nothing within chapter 180-79A [181-79A] WAC authorizes professional practice by an educational staff associate which is otherwise prohibited or restricted by any other law, including licensure statutes and rules and regulations promulgated by the appropriate licensure board or agency.

(6) Limited certificates. The following limited certificates are issued to individuals under specific circumstances set forth in WAC 180-79A-231 [181-79A-231]:

(a) Conditional certificate.

(b) Substitute certificate.

(c) Emergency certificate.

(d) Emergency substitute certificate.

(e) Nonimmigrant alien exchange teacher.

(f) Intern substitute teacher certificate.

(g) Transitional certificate.

[06-02-051, recodified as § 181-79A-140, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 and 28A.410.010. 04-20-092, § 180-79A-140, filed 10/5/04, effective 11/5/04; 02-18-037, § 180-79A-140, filed 8/26/02, effective 9/26/02; 02-13-027, § 180-79A-140, filed 6/12/02, effective 7/13/02. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-79A-140, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010. 00-13-063, § 180-79A-140, filed 6/16/00, effective 7/17/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-23-023, § 180-79A-140, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-140, filed 12/23/98, effective 1/23/99. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-140, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-145 Levels of certificates, initial/residency and continuing/professional. Two levels of certification may be issued.

(1) Initial and continuing certificates: Teachers with program completion dates through August 31, 2000, admin-

istrators with program completion dates through August 31, 2004, and educational staff associates with program completion dates through August 31, 2005, will be issued the following levels of certificates: Provided, That initial and continuing teachers' certificates after August 31, 2000, initial and continuing principal and program administrator certificates after August 31, 2004, and initial and continuing educational staff associate certificates after August 31, 2005, will be issued only to previous Washington certificate holders, pursuant to WAC 180-79A-123 [181-79A-123]:

(a) Initial certificate. The initial teacher certificate is valid for four years and the initial administrator and educational staff associate certificates are valid for seven years. Initial teacher certificates shall be subject to renewal pursuant to WAC 180-79A-250(1) [181-79A-250(1)] and 180-79A-123 [181-79A-123]. Initial administrator and educational staff associate certificates shall not be subject to renewal. Initial administrator and educational staff associate certificate holders shall be issued a continuing certificate if they meet the requirements for such certificate. Initial administrator and educational staff associate certificate holders shall be issued a residency certificate if their initial certificate has lapsed or they do not meet the requirements for a continuing certificate.

(b) Continuing certificate. The continuing certificate is valid on a continuing basis as specified in WAC 180-79A-250(3) [181-79A-250(3)].

(2) Residency and professional certificates: Teachers, administrators, and educational staff associates with program completion dates commencing with the dates indicated below will be issued the following levels of certificates:

(a) Residency certificate. The residency certificate will be issued to teachers beginning September 1, 2000, to principal/program administrators beginning September 1, 2004, and to educational staff associate school counselors, school psychologists, and school social workers no later than September 1, 2005.

(b) The residency certificate for principals, program administrators, and educational staff associates is valid for five years and shall be subject to renewal pursuant to WAC 180-79A-250 [181-79A-250] (2)(b) and (c).

(c) The first issue of a residency certificate for teachers employed in a school district or state agency that provides educational services for students shall be valid until the holder is no longer on provisional status. When the teacher for the first time in their career completes provisional status, their residency certificate will be reissued with a five-year expiration date. Prior to the expiration date, the teacher must earn a professional certificate or meet residency renewal requirements under WAC 180-79A-250 [181-79A-250] (2)(a).

(d) The first issue of a residency certificate for teachers employed in a state approved private school shall be valid until the holder has completed two years of successful teaching. When the teacher for the first time in their career completes two years of successful teaching, their residency certificate will be reissued with a five-year expiration date. Prior to the expiration date, the teacher must earn a professional certificate or meet residency renewal requirements under WAC 180-79A-250 [181-79A-250] (2)(a).

(e) The first issue of a residency certificate for principals, program administrators, and educational staff associates shall

be valid until the holder has completed two successful years of service in the role. When the principal, program administrator, or educational staff associate for the first time in their career completes two years of successful service in a school district, state approved private school, or state agency, their residency certificate will be reissued with a five-year expiration date. Prior to the expiration date, the candidate must earn a professional certificate or meet residency renewal requirements under WAC 180-79A-250 [181-79A-250] (2)(b) and (c).

(f) Professional certificate. The professional certificate will be issued to teachers beginning September 1, 2001, to principals/program administrators beginning September 1, 2007, and to educational staff associate school counselors, school psychologists, and school social workers beginning September 1, 2007. The professional certificate is valid for five years and shall be subject to renewal pursuant to WAC 180-79A-250 [181-79A-250]. Provided, That a professional teacher's certificate based on the possession of a valid teacher's certificate issued by the National Board for Professional Teaching Standards National Board Certification pursuant to WAC 180-79A-257 [181-79A-257] (3)(b) or 180-79A-206 [181-79A-206] (3)(a) shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater.

[06-02-051, recodified as § 181-79A-145, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 05-23-042, § 180-79A-145, filed 11/9/05, effective 12/10/05. Statutory Authority: RCW 28A.410.010 and 28A.305.130, 05-15-023, § 180-79A-145, filed 7/7/05, effective 8/7/05. Statutory Authority: RCW 28A.401.010 [28A.410.010], 04-21-040, § 180-79A-145, filed 10/15/04, effective 11/15/04. Statutory Authority: RCW 28A.305.130 and 28A.410.010, 02-18-037, § 180-79A-145, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.410.010, 01-09-004, § 180-79A-145, filed 4/5/01, effective 5/6/01; 00-03-048, § 180-79A-145, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-01-174, § 180-79A-145, filed 12/23/98, effective 1/23/99.]

WAC 181-79A-150 General requirements—Teachers, administrators, educational staff associates. The following requirements are to be met by candidates for certification as teachers including career and technical education teachers, administrators, or educational staff associates:

(1) Age. No person who is less than eighteen years of age shall receive a certificate to serve in the public or nonpublic schools of Washington state.

(2) Character. Applicants for certificates in Washington state who are not holders of a valid Washington state teacher's, administrator's, educational staff associate's, or career and technical education certificate must give evidence of good moral character and personal fitness as specified in WAC 180-79A-155 [181-79A-155] and must complete a record check through the Washington state patrol criminal identification system and through the Federal Bureau of Investigation at the applicant's expense as required by RCW 28A.410.010; such record check shall include a fingerprint check using a Washington state patrol approved fingerprint card: Provided, That the superintendent of public instruction may waive the record check for an applicant who has had a record check within the two years prior to application.

(3) Degrees and course work. A candidate for certification shall hold appropriate degrees, licenses, and additional course work as prescribed in chapters 180-79A [181-79A]

and 180-77 [181-77] WAC or have qualified under WAC 180-79A-257 [181-79A-257].

(4) Approved preparation program. Applicants for certification as teachers, administrators, school counselors, school psychologists and school social workers, except as otherwise provided in WAC 180-79A-257 [181-79A-257], and 180-79A-231 [181-79A-231], and in chapter 180-77 [181-77] WAC, in order to be certified within the state of Washington shall have completed a state approved college/university preparation program in the professional field for which certification is to be issued.

(5) Certificates.

(a) Candidates for principal's certificates must hold or have held:

(i) A valid teacher's certificate, excluding certificates issued under WAC 180-79A-231 [181-79A-231], or comparable out-of-state certificates; or

(ii) A valid educational staff associate certificate and have demonstrated successful school-based experience in an instructional role with students. Persons whose teacher or educational staff associate certificates were revoked, suspended, or surrendered are not eligible for principal's certificates.

(b) Candidates for superintendent's certificates must hold a valid teacher, educational staff associate, program administrator, or principal certificate; excluding certificates issued under WAC 180-79A-231 [181-79A-231], or comparable out-of-state certificates.

(6) Assessments. See RCW 28A.410.220.

[06-02-051, recodified as § 181-79A-150, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 and 28A.410.010, 02-18-037, § 180-79A-150, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4), 02-04-018, § 180-79A-150, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2), 99-23-023, § 180-79A-150, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-01-174, § 180-79A-150, filed 12/23/98, effective 1/23/99. Statutory Authority: RCW 28A.410.010, 98-01-030, § 180-79A-150, filed 12/8/97, effective 1/8/98; 97-04-088, § 180-79A-150, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-155 Good moral character and personal fitness—Necessary supporting evidence by applicants. All applicants for certification shall submit the following:

(1) An affidavit from the applicant indicating that he or she has not been convicted of any crime or a complete disclosure of all arrests and subsequent dispositions of such arrests. In the event of a conviction for any arrest, the applicant shall state reasons why such conviction does not reflect adversely on the requirement to possess good moral character and be personally fit.

(2) An affidavit from the applicant that he or she has no history of serious behavioral problems or a complete disclosure of the nature and status of all such problems, including the names and addresses of health practitioners who have treated the applicant within the past ten years and an executed consent form permitting the superintendent of public instruction to contact and consult with such health practitioners and for such health practitioners to fully disclose medical information related to such behavioral problems.

(3) An affidavit from the dean of the college or school of education or one or more officials designated by such dean, or, if none, by the college or university president, where the applicant completed his or her approved preparation program, that indicates that a designated college or university official has contacted several faculty members who personally know or knew the applicant and has no knowledge of any relevant information related to the applicant's character or fitness that would adversely affect the applicant's ability to serve in a certificated role or a statement from such affiant of the reasons why it is not possible to make such an affidavit.

(4) If the affidavit described in subsection (3) of this section is impossible or impractical to obtain, the applicant shall submit to the superintendent of public instruction the following:

(a) A complete employment history, including the names, addresses, and phone numbers of the immediate supervisor of such applicant when an employee; and

(b) The names, addresses, and phone numbers of three character references who are not related to the applicant.

(5) If the applicant holds or has held a certificate in any other state, such applicant shall prepare one of the following affidavits for each such state:

(a) An affidavit that such certificate has not been suspended, surrendered, or revoked. The superintendent of public instruction shall determine the status of certificates held by applicants in any other state to find if such certificates have been suspended, surrendered or revoked.

(b) An affidavit which shall fully disclose the reasons for the suspension, surrender, or revocation of the certificate. Such affidavit shall be submitted directly to the superintendent of public instruction.

[06-02-051, recodified as § 181-79A-155, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 03-04-022, § 180-79A-155, filed 1/27/03, effective 2/27/03; 01-09-006, § 180-79A-155, filed 4/5/01, effective 5/6/01. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2), 99-23-023, § 180-79A-155, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220 (4), 99-01-174, § 180-79A-155, filed 12/23/98, effective 1/23/99.]

WAC 181-79A-157 Affidavits from applicants. An individual's application for certification shall be signed under oath that the statements therein are true and correct. The application if not notarized by a notary public must conform with the formalities prescribed in RCW 9A.72.085. In addition, the application shall state that any knowingly false statement therein is punishable under perjury laws of the state of Washington.

Whenever this chapter requires an applicant or certificate holder to file an affidavit, it shall be in the same form as above.

[06-02-051, recodified as § 181-79A-157, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-01-174, § 180-79A-157, filed 12/23/98, effective 1/23/99.]

WAC 181-79A-206 Academic and experience requirements for certification—Teachers. Candidates for teachers' certificates shall complete the following requirements in addition to those set forth in WAC 180-79A-150 [181-79A-150].

(1) Initial/residency.

Candidates for the initial or residency certificate shall hold an approved baccalaureate degree from a regionally accredited college or university pursuant to WAC 180-79A-030(5) [181-79A-030(5)].

(2) Continuing.

(a) Candidates who apply for a continuing certificate shall have at least forty-five quarter hours (thirty semester hours) of upper division and/or graduate work completed from a regionally accredited institution of higher education subsequent to the conferral of the baccalaureate degree: Provided, That if the individual is pursuing study in a new subject matter area or specialization, lower division (freshmen or sophomore level) credit hours in that subject area or specialization shall be accepted toward continuing certification upon completion of the requirements for an endorsement in that subject area or specialization.

(b) Candidates applying for a continuing certificate prior to September 1, 2000, shall have been granted at least two subject area endorsements.

(c) Candidates who apply for a continuing certificate who have not successfully completed course work or an in-service program on issues of abuse, must complete the abuse course work requirement as defined in WAC 180-79A-030(6) [181-79A-030(6)].

(d) Candidates for continuing teachers' certificates shall provide documentation of one hundred eighty days or full-time equivalent or more satisfactory teaching experience with an authorized employer—i.e., school district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(3) Professional.

(a) Candidates for the professional certificate shall have successfully completed a state board of education approved, professional certificate program, pursuant to WAC 180-78A-500 [181-78A-500] through 180-78A-540 [181-78A-540]: Provided, That an individual who holds a teaching certificate issued by the National Board for Professional Teaching Standards (NBPTS) shall be deemed to have met the requirement for completion of a professional certificate program, in recognition that NBPTS certification is issued only to individuals who have demonstrated highly advanced skills as a teacher.

(b) Candidates who apply for a professional certificate who have not successfully completed course work or an in-service program on issues of abuse, must complete the abuse course work requirement as defined in WAC 180-79A-030(6) [181-79A-030(6)].

[06-02-051, recodified as § 181-79A-206, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 04-04-011, § 180-79A-206, filed 1/23/04, effective 2/23/04; 02-14-111, § 180-79A-206, filed 7/2/02, effective 8/2/02. Statutory Authority: RCW 28A.410.010, 28A.305.130 (1) and (2), 01-03-153, § 180-79A-206, filed 1/24/01, effective 2/24/01. Statutory Authority: RCW 28A.410.010, 00-03-048, § 180-79A-206, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-01-174, § 180-79A-206, filed 12/23/98, effective 1/23/99.]

WAC 181-79A-211 Academic and experience requirements for certification—Administrators. Candidates for the respective administrative certificate shall complete the following requirements in addition to those set forth

in WAC 180-79A-150 [181-79A-150] and 180-79A-213 [181-79A-213].

(1) Superintendent.

(a) Initial.

(i) The candidate shall hold an approved master's degree and have completed subsequent to the baccalaureate degree at least forty-five quarter credit hours (thirty semester credit hours) of graduate level course work in education.

(ii) The candidate must meet requirements for a superintendent's certificate pursuant to WAC 180-79A-150(4) [181-79A-150(4)].

(b) Continuing.

(i) The candidate shall hold an approved master's degree and have completed subsequent to the baccalaureate degree at least sixty quarter credit hours (forty semester credit hours) of graduate level course work in education or shall hold a doctorate in education.

(ii) The candidate must meet requirements for a superintendent's certificate pursuant to WAC 180-79A-150(4) [181-79A-150(4)].

(iii) Candidates applying for continuing superintendent's certificate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(2) Principal.

(a) Initial.

(i) The candidate shall hold an approved master's degree and have completed an approved program for the preparation of principals.

(ii) The candidate shall have documented successful school-based experience in an instructional role with students.

(b) Residency.

(i) The candidate shall hold an approved master's degree and have completed an approved program for the preparation of principals.

(ii) The candidate shall have documented successful school-based experience in an instructional role with students.

(c) Continuing.

(i) The candidate who holds a valid initial principal's certificate issued prior to August 31, 1998, shall hold an approved master's degree and completed subsequent to the baccalaureate degree at least forty-five hours (thirty semester hours) of graduate level course work in education or shall hold a doctorate in education.

(ii) The candidate who applies on or after August 31, 1998, shall hold a valid initial principal's certificate, an approved master's degree and shall have completed at least fifteen quarter (ten semester) credit hours of graduate course work offered by a college or university with a state approved principal program or one hundred fifty clock hours of study, which meet the state continuing education clock hour criteria pursuant to chapter 180-85 [181-85] WAC, or a combination of credits and clock hours equivalent to the above. Such study shall:

(A) Be based on the principal performance domains included in WAC 180-78A-270 [181-78A-270] (2)(a) or (b);

(B) Be taken subsequent to the issuance of the initial principal's certificate; and

(C) Be determined in consultation with and approved by the candidate's employer or the administrator of a state approved principal preparation program.

(iii) Provided, That a candidate who held a valid initial principal's certificate on August 31, 1998, may meet the academic requirement for the continuing certificate described in WAC 180-79A-211 [181-79A-211] (2)(c)(i), if the candidate meets requirements for and applies for the continuing certificate by the expiration date on that initial certificate.

(iv) The candidate must meet requirements for a principal's certificate pursuant to WAC 180-79A-150(4) [181-79A-150(4)].

(v) Candidates applying for continuing principal's certificate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer. Candidates applying for the continuing principal's certificate on or after August 31, 1998, shall provide documentation of three contracted school years of full-time employment as a principal or assistant principal.

(vi) Provided, That a candidate who held a valid initial principal's certificate on August 31, 1998, may meet the one hundred-eighty day experience requirement described in WAC 180-79A-211 [181-79A-211] (2)(c)(v), if that candidate meets requirements and applies for the continuing certificate by the expiration date on that initial certificate.

(d) Professional certificate.

(i) The candidate shall have completed an approved professional certificate program.

(ii) The candidate shall have satisfactory evaluations while serving in the principal or assistant principal role as verified by a school district or a state board of education approved private school.

(iii) The candidate shall have documentation of three contracted school years of employment as a principal or assistant principal.

(3) Program administrator.

(a) Initial.

(i) The candidate shall hold an approved master's degree and have completed subsequent to the baccalaureate degree at least twenty-four quarter credit hours (sixteen semester credit hours) of graduate level course work in education.

(b) Residency certificate.

(i) The candidate shall hold an approved master's degree and have completed an approved program for the preparation of program administrators.

(ii) The candidate shall have documented successful school-based experience in an instructional role with students.

(c) Continuing.

(i) The candidate shall hold a valid initial program administrator's certificate, an approved master's degree and have completed subsequent to the baccalaureate degree at least thirty quarter credit hours (twenty semester credit hours) of graduate level course work in education or shall hold a doctorate in education.

(ii) Candidates applying for continuing program administrator's certificate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(d) Professional certificate.

(i) The candidate shall have completed an approved professional certificate program.

(ii) The candidate shall have satisfactory evaluations while serving in a program administrator role as verified by a school district or a state board of education approved private school.

[06-02-051, recodified as § 181-79A-211, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 05-23-041, § 180-79A-211, filed 11/9/05, effective 12/10/05. Statutory Authority: RCW 28A.305.130 and 28A.410.010, 02-18-037, § 180-79A-211, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4), 02-04-018, § 180-79A-211, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010, 01-03-152, § 180-79A-211, filed 1/24/01, effective 2/24/01. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2), 99-23-023, § 180-79A-211, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-01-174, § 180-79A-211, filed 12/23/98, effective 1/23/99.]

WAC 181-79A-213 Issues of abuse course work requirement for continuing certification—Administrators. Candidates who apply for a continuing administrator certificate after August 31, 1994, must have successfully completed the abuse course work requirement as defined in WAC 180-79A-030(6) [181-79A-030(6)].

[06-02-051, recodified as § 181-79A-213, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 04-04-011, § 180-79A-213, filed 1/23/04, effective 2/23/04. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2), 99-23-023, § 180-79A-213, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-01-174, § 180-79A-213, filed 12/23/98, effective 1/23/99.]

WAC 181-79A-221 Academic and experience requirements for certification—School counselors, school psychologists, and school social workers. Candidates for school counselor, school psychologist and school social worker certification shall complete the following requirements in addition to those set forth in WAC 180-79A-150 [181-79A-150] and 180-79A-226 [181-79A-226]: Provided, That it shall not be necessary for any candidate who holds a master's or doctorate degree to obtain the specified master's degree if the candidate provides satisfactory evidence to the superintendent of public instruction that he or she has completed all course work requirements relevant to the required master's degree and has satisfactorily completed a comprehensive written examination required in such master's degree program: Provided, That if any candidate has been awarded a master's degree without a comprehensive written examination, the candidate, as a condition for certification, shall arrange to take such an examination with any accredited college or university and provide the superintendent of public instruction with an affidavit from the chair of the department of such academic field that he or she has successfully completed the above noted comprehensive examination.

(1) School counselor.

(a) Initial.

(i) The candidate shall have completed all requirements for the master's degree (except special projects or thesis) with a major in counseling.

(ii) The candidate shall have successfully completed a written comprehensive examination of the knowledge included in the course work for the required master's degree. This examination shall be an examination of a regionally accredited institution of higher education or the National Counselor Examination (NCE) of the National Board of Certified Counselors (NBCC).

(b) Residency.

(i) The candidate shall hold a master's degree with a major in counseling.

(ii) The candidate shall have successfully completed a written comprehensive examination of the knowledge included in the course work for the required master's degree. This examination shall be a proctored, written examination of a regionally accredited institution of higher education or the candidate may meet this requirement by receiving a passing score on the Praxis II guidance and counseling examination administered by Educational Testing Service (ETS).

(c) Continuing.

(i) The candidate shall hold a master's degree with a major in counseling.

(ii) The candidate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(iii) The candidates must demonstrate their respective knowledges and skills while employed in that role by passing a one-quarter or one-semester college or university course that includes peer review. The college or university shall establish the procedures for the peer review with advice from the respective professional education advisory board.

(d) Professional. The candidate shall have completed an approved professional certificate program.

(2) School psychologist.

(a) Initial.

(i) The candidate shall have completed all requirements for the master's degree (except special projects or thesis) with a major or specialization in school psychology.

(ii) The candidate shall have successfully completed a written comprehensive examination of the knowledge included in the course work for the required master's degree. This examination shall be an examination from a regionally accredited institution of higher education or the National Certification of School Psychologist (NCSP) examination.

(b) Residency.

(i) The candidate shall hold a master's degree with a major or specialization in school psychology.

(ii) The candidate shall have successfully completed a written comprehensive examination of the knowledge included in the course work for the required master's degree. This examination shall be a proctored, written examination of a regionally accredited institution of higher education or the candidate may meet this requirement by receiving a passing

score on the Praxis II school psychology examination administered by Educational Testing Service (ETS).

(c) Continuing.

(i) The candidate shall hold a master's degree with a major or specialization in school psychology.

(ii) The candidate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(iii) The candidates must demonstrate their respective knowledges and skills while employed in that role by passing a one-quarter or one-semester college or university course that includes peer review. The college or university shall establish the procedures for the peer review with advice from the respective professional education advisory board.

(d) Professional. The candidate shall have completed an approved professional certificate program.

(3) School social worker.

(a) Initial.

(i) The candidate shall have completed all requirements for a master's degree in social work except special projects or thesis.

(ii) The candidate shall have successfully completed a written comprehensive examination of the knowledge included in the course work for the required master's degree. This examination shall be an examination from a regionally accredited institution of higher education, the social worker examination of the Academy of Certified Social Workers or the National Teacher Examination—School Social Worker Specialty Area examination required for certification as a school social worker by the National Association of Social Workers.

(b) Residency.

(i) The candidate shall hold a master's degree in social work.

(ii) The candidate shall have successfully completed a written comprehensive examination of the knowledge included in the course work for the required master's degree. This examination shall be a proctored, written examination of a regionally accredited institution of higher education or the candidate may meet the requirement by receiving a passing score on the Praxis II school social work examination administered by Educational Testing Service (ETS).

(c) Continuing.

(i) The candidate shall hold a master's degree in social work.

(ii) The candidate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(iii) The candidates must demonstrate their respective knowledges and skills while employed in that role by passing a one-quarter or one-semester college or university course that includes peer review. The college or university shall

establish the procedures for the peer review with advice from the respective professional education advisory board.

(d) Professional. The candidate shall have completed an approved professional certificate program.

[06-02-051, recodified as § 181-79A-221, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.401.010 [28A.410.010]. 04-21-040, § 180-79A-221, filed 10/15/04, effective 11/15/04. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-221, filed 12/23/98, effective 1/23/99.]

WAC 181-79A-223 Academic and experience requirements for certification—School nurse, school occupational therapist, school physical therapist and school speech-language pathologist or audiologist. Candidates for school nurse, school occupational therapist, school physical therapist and school speech-language pathologist or audiologist certification shall apply directly to the professional education and certification office. Such candidates shall complete the following requirements, in addition to those set forth in WAC 180-79A-150 [181-79A-150], except state approved college/university professional preparation program:

(1) School nurse.

(a) Initial.

(i) The candidate shall hold a valid license as a registered nurse (RN) in Washington state.

(ii) The candidate shall hold a baccalaureate degree or higher in nursing from a program accredited by the National League for Nursing Accrediting Commission or the Commission on Collegiate Nursing Education.

(iii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the state board of education which will include schools and society; human growth, development, and learning; American school law; legal responsibilities of the ESA; and the responsibilities of the specific ESA role in a school setting including the state learning goals and essential academic learning requirements: Provided, That an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one hundred eighty calendar days which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work during the one hundred eighty-day period.

(b) Continuing.

(i) The candidate shall have completed the requirements for the initial certificate as a school nurse and have completed forty-five quarter hours (thirty semester hours) of postbaccalaureate course work in education, nursing, or other health sciences.

(ii) The candidate shall provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(2) School occupational therapist.

(a) Initial.

(i) The candidate shall hold a valid license as an occupational therapist in Washington state.

(ii) The candidate shall hold a baccalaureate (or higher) degree from an American Occupational Therapy Association approved program in occupational therapy.

(iii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the state board of education which will include schools and society; human growth, development, and learning; American school law; legal responsibilities of the ESA; and the responsibilities of the specific ESA role in a school setting including the state learning goals and essential academic learning requirements: Provided, That an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one hundred eighty calendar days which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work during the one hundred eighty-day period.

(b) Continuing.

(i) The candidate shall have completed the requirements for the initial certificate as a school occupational therapist and have completed at least fifteen quarter hours (ten semester hours) of course work beyond the baccalaureate degree in occupational therapy, other health sciences or education.

(ii) The candidate shall provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(3) School physical therapist.

(a) Initial.

(i) The candidate shall hold a valid license as a physical therapist in Washington state.

(ii) The candidate shall hold a baccalaureate (or higher) degree from an American Physical Therapy Association accredited program in physical therapy.

(iii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the state board of education which will include schools and society; human growth, development, and learning; American school law; legal responsibilities of the ESA; and the responsibilities of the specific ESA role in a school setting including the state learning goals and essential academic learning requirements: Provided, That an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one hundred eighty calendar days which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work during the one hundred eighty-day period.

(b) Continuing.

(i) The candidate shall have completed the requirements for the initial certificate as a school physical therapist and have completed fifteen quarter hours (ten semester hours) of course work beyond the baccalaureate degree in physical therapy, other health sciences or education.

(ii) The candidate shall provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency,

college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(4) School speech-language pathologist or audiologist.

(a) Initial.

(i) The candidate shall have completed all course work (except special project or thesis) for a master's degree from a college or university program accredited by the American Speech and Hearing Association (ASHA) with a major in speech pathology or audiology. Such program shall include satisfactory completion of a written comprehensive examination: Provided, That if any candidate has not completed a written comprehensive examination, the candidate may present verification from ASHA of a passing score on the National Teacher's Examination in speech pathology or audiology as a condition for certification.

(ii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the state board of education which will include schools and society; human growth, development, and learning; American school law; legal responsibilities of the ESA; and the responsibilities of the specific ESA role in a school setting including the state learning goals and essential academic learning requirements: Provided, That an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one hundred eighty calendar days which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work during the one hundred eighty-day period.

(b) Continuing.

(i) The candidate shall hold a master's degree with a major in speech pathology or audiology, with the exception of a candidate who holds a current and valid Washington state conditional certificate in speech/language pathology as of June 30, 2003.

(ii) The candidate shall provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

[06-02-051, recodified as § 181-79A-223, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 04-04-012, § 180-79A-223, filed 1/23/04, effective 2/23/04; 99-14-012, § 180-79A-223, filed 6/24/99, effective 7/25/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-223, filed 12/23/98, effective 1/23/99.]

WAC 181-79A-226 Issues of abuse course work requirement for continuing or professional certification—Educational staff associate. Candidates who apply for a continuing or professional educational staff associate certificate after August 31, 1994, must have successfully completed the abuse course work requirement as defined in WAC 180-79A-030(6) [181-79A-030(6)].

[06-02-051, recodified as § 181-79A-226, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.401.010 [28A.410.010]. 04-21-040, § 180-79A-226, filed 10/15/04, effective 11/15/04. Statutory Authority: RCW 28A.410.010. 04-04-011, § 180-79A-226, filed 1/23/04, effective 2/23/04. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-

23-023, § 180-79A-226, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-226, filed 12/23/98, effective 1/23/99.]

WAC 181-79A-231 Limited certificates. Notwithstanding other requirements prescribed in this chapter for eligibility for certification in the state of Washington, the following certificates shall be issued under specific circumstances set forth below for limited service:

(1) Conditional certificate.

(a) The purpose of the conditional certificate is to assist local school districts, approved private schools, and educational service districts in meeting the state's educational goals by giving them flexibility in hiring decisions based on shortages or the opportunity to secure the services of unusually talented individuals. The state board of education encourages in all cases the hiring of fully certificated individuals and understands that districts will employ individuals with conditional certificates only after careful review of all other options. The state board of education asks districts when reviewing such individuals for employment to consider, in particular, previous experience the individual has had working with children.

(b) Conditional certificates are issued upon application by the local school district, approved private school, or educational service district superintendent to persons who meet the age, good moral character, and personal fitness requirements of WAC 180-79A-150 [181-79A-150] (1) and (2), if one of the following conditions is verified:

(i) The applicant is highly qualified and experienced in the subject matter to be taught and has unusual distinction or exceptional talent which is able to be demonstrated through public records of accomplishments and/or awards; or

(ii) No person with regular teacher certification in the endorsement area is available as verified by the district or educational service district superintendent or approved private school administrator, or circumstances warrant consideration of issuance of a conditional certificate.

(c) In addition, conditional certificates are issued to persons in the following categories only if no person with regular certification is available:

(i) The applicant qualifies to instruct in the traffic safety program as paraprofessionals pursuant to WAC 392-153-020 (2) and (3); or

(ii) The applicant is assigned instructional responsibility for intramural/interscholastic activities which are part of the district or approved private school approved program; or

(iii) The applicant possesses a state of Washington license for a registered nurse: Provided, That the district will be responsible for orienting and preparing individuals for their assignment as described in (e)(iii) of this subsection; or

(iv) The applicant has completed a bachelor's degree or higher from a regionally accredited college/university. All speech-language pathologists or audiologists providing services under a current and valid conditional certificate issued as of June 30, 2003, will be fully qualified consistent with WAC 180-79A-223 [181-79A-223] by the year 2010. First conditional certificates, issued to speech-language pathologists or audiologists after June 30, 2003, which are valid for up to two years, may be reissued once for up to two years, if the individual provides evidence that he/she is enrolled in and

completing satisfactory progress in a master's degree program resulting in the initial ESA school speech-language pathologists or audiologist certificate.

(v) The applicant for a conditional teaching certificate in special education shall hold a bachelor's degree or higher from a regionally accredited college/university.

(vi) The issuance of a conditional certificate to a special education teacher after July 1, 2003, is contingent upon the individual being enrolled in an approved teacher preparation program resulting in a residency teacher certificate endorsed in special education. The conditional certificate is valid for up to two years and may be reissued once for one year upon verification by the college/university that the individual is completing satisfactory progress in the residency teacher certificate program.

(vii) An individual with full certification and endorsed in special education shall be assigned as a mentor to the special education teacher serving on a conditional certificate for the duration of the conditional certificate.

(d) The educational service district or local district superintendent or administrator of an approved private school will verify that the following criteria have been met when requesting the conditional certificate:

(i) The district or educational service district superintendent or approved private school administrator has indicated the basis on which he/she has determined that the individual is competent for the assignment;

(ii) The individual is being certificated for a specific assignment and responsibility in a specified activity/field;

(e) When requesting the conditional certificate for persons who provide classroom instruction, the educational service district superintendent or local district superintendent or approved private school administrator will verify that the following additional criteria will be met:

(i) After specific inclusion on the agenda, the school board or educational service district board has authorized submission of the application.

(ii) The individual will be delegated primary responsibility for planning, conducting, and evaluating instructional activities with the direct assistance of a school district or approved private school mentor and will not be serving in a paraprofessional role which would not require certification;

(iii) Personnel so certificated will be oriented and prepared for the specific assignment by the employing district or approved private school. A written plan of assistance will be developed, in cooperation with the person to be employed within twenty working days from the commencement of the assignment. In addition, prior to service the person will be apprised of any legal liability, the responsibilities of a professional educator, the lines of authority, and the duration of the assignment;

(iv) Within the first sixty working days, personnel so certificated will complete sixty clock hours (six quarter hours or four semester hours) of course work in pedagogy and child/adolescent development appropriate to the assigned grade level(s) as approved by the employing school district or approved private school.

(f) The certificate is valid for two years or less, as evidenced by the expiration date which is printed on the certificate, and only for the activity specified. The certificate may be reissued for two years and for two-year intervals thereafter

upon application by the employing local school district, approved private school, or educational service district and upon completion of sixty clock hours (six quarter hours or four semester hours) of course work since the issuance of the most recent certificate. The requesting local school district, approved private school, or educational service district shall verify that the sixty clock hours taken for the reissuance of the certificate shall be designed to support the participant's professional growth and enhance the participant's instructional knowledge or skills to better assist students meeting the state learning goals and/or essential academic learning requirements.

(2) Substitute certificate.

(a) The substitute certificate entitles the holder to act as substitute during the absence of the regularly certificated staff member for a period not to exceed thirty consecutive school days during the school year in any one assignment. This certificate may be issued to:

(i) Teachers, educational staff associates or administrators whose state of regular Washington certificates have expired; or

(ii) Persons who have completed state approved preparation programs and baccalaureate degrees at regionally accredited colleges and universities for certificates; or

(iii) Persons applying as out-of-state applicants who qualify for certification pursuant to WAC 180-79A-257 [181-79A-257] (1)(c) and (d).

(b) The substitute certificate is valid for life.

(3) Emergency certification.

(a) Emergency certification for specific positions may be issued upon the recommendation of school district and educational service district superintendents or approved private school administrators to persons who hold the appropriate degree and have substantially completed a program of preparation in accordance with Washington requirements for certification: Provided, That a qualified person who holds regular certification is not available or that the position is essential and circumstances warrant consideration of issuance of an emergency certificate: Provided further, That a candidate for emergency certification as a school counselor, school psychologist, or social worker shall be the best qualified of the candidates for the position as verified by the employing school district and shall have completed all course work for the required master's degree with the exception of the internship: Provided further, That a candidate for emergency certification as a school psychologist shall be enrolled in an approved school psychologist preparation program and shall be participating in the required internship.

(b) The emergency certificate is valid for one year or less, as evidenced by the expiration date which is printed on the certificate.

(4) Emergency substitute certification.

(a) If the district or approved private school has exhausted or reasonably anticipates it will exhaust its list of qualified substitutes who are willing to serve as substitutes, the superintendent of public instruction may issue emergency substitute certificates to persons not fully qualified under subsection (2) of this section for use in a particular school district or approved private school once the list of otherwise qualified substitutes has been exhausted.

(b) Such emergency substitute certificates shall be valid for three years or less, as evidenced by the expiration date which is printed on the certificate.

(5) Nonimmigrant alien exchange teacher. Applicants for certification as a nonimmigrant alien exchange teacher must qualify pursuant to WAC 180-79A-270 [181-79A-270] and be eligible to serve as a teacher in the elementary or secondary schools of the country of residence.

(6) Intern substitute teacher certificate.

(a) School districts and approved private schools may request intern substitute teacher certificates for persons enrolled in student teaching/internships to serve as substitute teachers in the absence of the classroom teacher.

(b) The supervising college or university must approve the candidate for the intern substitute teacher certificate.

(c) Such certificated substitutes may be called at the discretion of the school district or approved private school to serve as a substitute teacher only in the classroom(s) to which the individual is assigned as a student teacher/intern.

(d) The intern substitute teacher certificate is valid for one year, or less, as evidenced by the expiration date which is printed on the certificate.

(7) Transitional certificate.

(a) An individual whose continuing certificate has lapsed according to WAC 180-85-040 [181-85-040] may be issued a transitional certificate to be employed on a conditional basis upon request by a school district, approved private school, or educational service district superintendent. The holder of the transitional certificate must complete any continuing certificate reinstatement requirements established by the state board of education within two years of the date the holder was issued the transitional certificate in order to continue to be employed. The transitional certificate expiration date shall not be calculated under state board policy WAC 180-79A-117 [181-79A-117].

(b) No individual whose continuing certificate has been suspended or revoked shall be eligible to be employed under this section.

(c) School districts, approved private schools, and educational service districts are strongly encouraged to develop with the holder of a transitional certificate a plan of assistance to be sure the holder completes the necessary continuing certificate reinstatement requirements under WAC 180-85-130 [181-85-130] within the two-year conditional employment period specified under (a) of this subsection if the holder is to continue to be employed.

(d) The transitional certificate is not renewable and may not be reissued.

[06-02-051, recodified as § 181-79A-231, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 04-20-090, § 180-79A-231, filed 10/5/04, effective 11/5/04; Readopted by 03-14-115, § 180-79A-231, filed 6/30/03, effective 7/31/03; 03-12-035, § 180-79A-231, filed 5/30/03, effective 6/30/03. Statutory Authority: RCW 28A.410.010 and 28A.305.130, 02-13-027, § 180-79A-231, filed 6/12/02, effective 7/13/02. Statutory Authority: RCW 28A.410.010, 00-13-063, § 180-79A-231, filed 6/16/00, effective 7/17/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2), 99-23-023, § 180-79A-231, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-01-174, § 180-79A-231, filed 12/23/98, effective 1/23/99.]

WAC 181-79A-250 Initial/residency and continuing/professional certificates—Renewal, reinstatement, and

continuing education requirements. The following shall apply to initial/residency and continuing/professional certificates issued pursuant to this chapter:

(1) Initial certificate.

(a) Teachers.

An initial teacher certificate may be renewed for an additional three-year period on application and verification that the individual has completed all course work requirements from a regionally accredited institution of higher education as defined in WAC 180-78A-010(6) [181-78A-010(6)] for continuing certification or has completed at least fifteen quarter credit hours (ten semester credit hours) since the certificate was issued or renewed. After August 31, 2000, provisions of WAC 180-79A-123 [181-79A-123] will apply.

(b) Administrators.

After June 30, 2004, provisions of WAC 180-79A-123(8) [181-79A-123(8)] will apply.

(c) Educational staff associates.

After June 30, 2005, provisions of WAC 180-79A-123(9) [181-79A-123(9)] will apply.

(2) Residency certificate. Residency certificates shall be renewed under one of the following options:

(a) Teachers.

(i) Individuals who hold, or have held, a residency certificate and who qualify for enrollment in a professional certificate program pursuant to WAC 180-78A-535 [181-78A-535] (1)(a) may have the certificate renewed for one additional two-year period upon verification by the professional certificate administrator that the candidate is enrolled in a state approved professional certificate program.

(ii) Individuals who hold, or have held, residency certificates who do not qualify for enrollment in a professional certificate program pursuant to WAC 180-78A-535 [181-78A-535] (1)(a) may have their residency certificates renewed for one additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work (normally one hundred level or higher) from a regionally accredited institution of higher education taken since the issuance of the residency certificate.

(iii) An individual who completes a national board certification assessment but does not earn national board certification, may use that completed assessment to renew the residency certificate for two years.

(iv) Individuals who complete the requirements in their school district professional growth plan may use that completed plan to maintain the continuing certificate or renew the professional certificate.

(b) Principals/program administrators.

(i) Individuals who hold, or have held, a residency certificate and who qualify for enrollment in a professional certificate program pursuant to WAC 180-78A-535 [181-78A-535] (2)(a) may have the certificate renewed for one additional two-year period upon verification by the professional certificate program administrator that the candidate is enrolled in a state approved professional certificate program.

(ii) Individuals who hold, or have held, residency certificates who do not qualify for enrollment in a professional certificate program under WAC 180-78A-535 [181-78A-535] (2)(a) may have their residency certificates renewed for one additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course

work, directly related to the current performance-based leadership standards as defined in WAC 180-78A-270 [181-78A-270] (2)(b) from a regionally accredited institution of higher education taken since the issuance of the residency certificate. Renewal beyond one time requires the completion of fifteen quarter credits (ten semester credits) directly related to the current performance-based leadership standards as defined in WAC 180-78A-270 [181-78A-270] (2)(b) plus an internship approved by a college or university with a state board approved residency certificate program and taken since the issuance of the last residency certificate.

(c) School counselors, school psychologists, or school social workers.

(i) Individuals who hold a residency certificate and who qualify for enrollment in a professional certificate program pursuant to WAC 180-78A-535(3) [181-78A-535(3)] may have the certificate renewed for one additional two-year period upon verification by the professional certificate program administrator that the candidate is enrolled in a state approved professional certificate program.

(ii) Individuals who hold, or have held, a residency certificate who do not qualify for admission to a professional certificate program under WAC 180-78A-535 [181-78A-535] (3)(a) may have their residency certificates renewed for one additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work, directly related to the current performance-based standards as defined in WAC 180-78A-270 [181-78A-270] (5), (7), or (9) from a regionally accredited institution of higher education taken since the issuance of the residency certificate. Renewal for an additional five-year period requires the completion of fifteen quarter credits (ten semester credits) directly related to the current performance-based standards as defined in WAC 180-78A-270 [181-78A-270] (5), (7), or (9) completed since the issuance of the most recent residency certificate plus an internship approved by a college or university with a state board approved residency certificate program and taken since the issuance of the last residency certificate.

(d) Renewals based on conditions other than those described in WAC 180-79A-250 [181-79A-250] (2)(a) and (b) may be appealed to the state board of education, or its designated appeals committee. The following conditions apply to such appeals:

(i) Individuals who appeal shall present a rationale and evidence to support their request to have their residency certificates renewed.

(ii) The state board of education, or its designated appeals committee, in making its decision shall determine the length of the renewal and may establish specific conditions (such as course work requirements) as prerequisites for the reissuance of the residency certificate.

(3) Continuing certificate.

(a) The continuing certificates of holders who were eligible for such certificates prior to August 31, 1987, and who applied for such certificates prior to July 1, 1988, or who would have been eligible for such certificates prior to August 31, 1987, but for one of the three-year experience requirement and who complete such requirement and apply for such certificate prior to August 31, 1988, will be valid for life. Holders of valid continuing certificates affected by this subsection shall be entitled to have such certificate reissued and

subject to the terms and conditions applicable to certification at the time of reissuance including the continuing education requirements of chapter 180-85 [181-85] WAC.

(b) All continuing certificates not affected by the exception stated in (a) of this subsection shall lapse if the holder does not complete the continuing education requirement, to include the filing requirement specified in chapter 180-85 [181-85] WAC. To reinstate such a lapsed continuing certificate the individual must complete the requirements for reinstatement stated within chapter 180-85 [181-85] WAC and must meet the conditions stated in WAC 180-79A-253 [181-79A-253].

(4) Professional certificate.

(a) Teachers.

(i) A valid professional certificate may be renewed for additional five year periods by the completion of one hundred fifty continuing education credit hours as defined in chapter 180-85 [181-85] WAC since the certificate was issued. An expired professional certificate may be renewed for an additional five-year period by presenting evidence to the superintendent of public instruction of completing the continuing education credit hour requirement within the five years prior to the date of the renewal application. All continuing education credit hours shall relate to either (a)(i)(A) or (B) of this subsection: Provided, That both categories (a)(i)(A) and (B) of this subsection must be represented in the one hundred fifty continuing education credit hours required for renewal:

(A) One or more of the following three standards outlined in WAC 180-78A-540 [181-78A-540]:

(I) Effective instruction.

(II) Professional contributions.

(III) Professional development.

(B) One of the salary criteria specified in RCW 28A.415.023.

(I) Is consistent with a school-based plan for mastery of student learning goals as referenced in RCW 28A.320.205, the annual school performance report, for the school in which the individual is assigned;

(II) Pertains to the individual's current assignment or expected assignment for the subsequent school year;

(III) Is necessary to obtain an endorsement as prescribed by the state board of education;

(IV) Is specifically required to obtain advanced levels of certification; or

(V) Is included in a college or university degree program that pertains to the individual's current assignment, or potential future assignment, as a certified instructional staff.

(ii) Provided, That a professional certificate may be renewed based on the possession of a valid teaching certificate issued by the National Board for Professional Teaching Standards at the time of application for the renewal of the professional certificate. Such renewal shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater.

(b) Principals/program administrators.

(i) A professional certificate may be renewed for additional five year periods for individuals employed as a principal, assistant principal or program administrator in a public school or state board approved private school by:

(A) Completion of a professional growth plan that is developed and approved with the superintendent, superintendent

designee, or appointed representative (e.g., educational service district personnel, professional association or organization staff, or peer from another district), and that documents formalized learning opportunities and professional development activities that:

(I) Emphasize continuous learning;

(II) Positively impact student learning;

(III) Relate to the six standards and "career level" benchmarks defined in WAC 180-78A-270 [181-78A-270] (2)(b);

(IV) Explicitly connect to the evaluation process;

(V) Reflect contributions to the school, district, and greater professional community; and

(VI) Identify areas in which knowledge and skills need to be enhanced.

(B) Verification of satisfactory performance evaluations for the five year periods; and

(C) Documented evidence of results of the professional growth plan on student learning.

(ii) Individuals not employed as a principal, assistant principal, or program administrator in a public school or state board approved private school may have their professional certificate renewed for one additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work directly related to the current performance-based leadership standards as defined in WAC 180-78A-270 [181-78A-270] (2)(b) from a regionally accredited institution of higher education taken since the issuance of the professional certificate. Renewal beyond one time requires the completion of fifteen quarter credits (ten semester credits) directly related to the current performance-based leadership standards as defined in WAC 180-78A-270 [181-78A-270] (2)(b) plus an internship approved by a college or university with a state board approved professional certificate program, and taken since the issuance of the last professional certificate.

(c) School counselors, school psychologists, or school social workers.

(i) A professional certificate may be renewed for additional five-year periods for individuals employed as a school counselor, school psychologist, or school social worker in a public school, state board approved private school, or in a state agency which provides educational services to students by:

(A) Completion of a professional growth plan that is developed and approved with the principal or principal designee, and that documents formalized learning opportunities and professional development activities that:

(I) Emphasize continuous learning;

(II) Positively impact student learning; and

(III) Reflect contributions to the school, district, and greater professional community; or

(B) Completion of one hundred fifty continuing education credit hours as defined in chapter 180-85 [181-85] WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 180-78A-270 [181-78A-270] (5), (7), or (9).

(ii) Individuals not employed as a school counselor, school psychologist, or a school social worker in a public school or state board approved private school may have their professional certificate renewed for an additional five-year period by:

(A) Completion of fifteen quarter credits (ten semester credits) of college credit course work directly related to the current performance-based standards as defined in WAC 180-78A-270 [181-78A-270] (5), (7), or (9) from a regionally accredited institution of higher education taken since the issuance of the professional certificate; or

(B) Completion of one hundred fifty continuing education credit hours as defined in chapter 180-85 [181-85] WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 180-78A-270 [181-78A-270] (5), (7), or (9).

[06-02-051, recodified as § 181-79A-250, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 05-23-043, § 180-79A-250, filed 11/9/05, effective 12/10/05; 05-15-053, § 180-79A-250, filed 7/12/05, effective 8/12/05; 04-21-040, § 180-79A-250, filed 10/15/04, effective 11/15/04. Statutory Authority: RCW 28A.305.130 and 28A.410.010, 02-18-037, § 180-79A-250, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.410.010, 01-13-111, § 180-79A-250, filed 6/20/01, effective 7/21/01; 01-09-004, § 180-79A-250, filed 4/5/01, effective 5/6/01; 00-03-048, § 180-79A-250, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-01-174, § 180-79A-250, filed 12/23/98, effective 1/23/99.]

WAC 181-79A-253 Reinstatement of certificates.

Only a continuing certificate may be reinstated. A holder of a lapsed, surrendered, or revoked continuing certificate at the time of application for reinstatement of such certificate must submit the following:

(1) Character evidence as required by WAC 180-79A-150(2) [181-79A-150(2)] for candidates for certification.

(2) In accordance with RCW 28A.410.110, a revoked certificate may not be reinstated within one calendar year from the date of revocation.

(3) Provided, That no certificate may be reinstated if more than five calendar years has passed since the date of surrender or revocation; however, such applicants may apply pursuant to WAC 180-79A-124 [181-79A-124] for a new certificate under requirements in effect at the time of application.

[06-02-051, recodified as § 181-79A-253, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2), 99-23-023, § 180-79A-253, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-01-174, § 180-79A-253, filed 12/23/98, effective 1/23/99.]

WAC 181-79A-255 Certification of out-of-state trained educational personnel—Interstate educational personnel contracts. The superintendent of public instruction is authorized to enter into interstate educational personnel contracts with states party to the interstate agreement on qualifications of educational personnel in accordance with provisions of RCW 28A.690.010 and 28A.690.020 which authorize on an interstate basis Washington state certification of persons of other states having preparation and qualifications comparable even though not identical to Washington state board of education standards.

[06-02-051, recodified as § 181-79A-255, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-01-174, § 180-79A-255, filed 12/23/98, effective 1/23/99.]

WAC 181-79A-257 Out-of-state candidates. Candidates for certification from other states who meet the general

certificate requirements described in WAC 180-79A-150 [181-79A-150] (1) and (2) shall be eligible for Washington certificates as follows:

(1) Initial and residency certificates. The initial certificate (residency certificate for teachers after August 31, 2000,) shall be issued by the superintendent of public instruction to any candidate who meets requirements for the residency certificate including testing requirements as described in RCW 28A.410.220, and who passes the WEST-B and meets one of the following:

(a) Qualifies under provisions of the interstate compact.

(b) Holds the appropriate degree and, if applicable, credit hours and/or licensing as set forth in this chapter and has completed a state approved preparation program at a regionally accredited college or university in the professional field for which the certificate is to be issued and such additional professional fields as required by WAC 180-79A-150(4) [181-79A-150(4)].

(c) Provided, That if a candidate for teacher, administrator or educational staff associate certification does not meet the qualifications described in (a) or (b) of this subsection, an initial/residency certificate shall be issued to a candidate who holds an appropriate degree from a regionally accredited college or university and also holds or has held a certificate in the role, comparable to an initial/residency certificate, issued by another state and has practiced at the P-12 level in that respective role outside the state of Washington for three years: Provided further, That the teacher preparation program through which the teacher earned their teaching certificate included a supervised classroom-based internship.

(d) Provided further, That if a candidate for a teacher's certificate would qualify under (b) of this subsection, but for the fact that he or she has completed an approved teacher preparation program in a subject area that is not listed in chapter 180-82 [181-82] WAC as a Washington endorsement, the candidate shall be issued a certificate that bears the out-of-state area of program preparation. It shall be noted on the certificate so issued that the subject area listed is not a Washington state endorsement.

(e) Holds an appropriate degree from a regionally accredited college or university and has practiced three years as an educational staff associate in that role in a state where such certificate was not required.

(f) Holds a valid Nationally Certified School Psychologist (NCSP) certificate issued by the National School Psychology Certification Board (NSPCB) after December 31, 1991, and applies for an initial/residency educational staff associated school psychologist certificate.

(2) Continuing certificate. The continuing certificate shall be issued to administrators and educational staff associates on verification that the candidate has met all requirements for initial and continuing certification in the state of Washington.

(3) Professional certificate. After August 31, 2000, the professional certificate shall be issued to out-of-state candidates if the candidate meets requirements for the residency certificate including testing requirements as described in RCW 28A.410.220, meets the child abuse course work requirement as described in WAC 180-79A-206 [181-79A-206] (3)(b), and if one of the following conditions is met:

(a) The candidate has completed an advanced level certification procedure approved by the state board of education as equivalent to the approved program procedure required in Washington; or

(b) The candidate holds a valid teaching certificate issued by the National Board for Professional Teaching Standards; or

(c) A Washington state college or university with an approved professional certificate program verifies that the candidate has met all the requirements of that institution's approved program. The college/university shall evaluate the candidate's background to determine whether or not course work or certification activities are equivalent to that college/university's approved program.

[06-02-051, recodified as § 181-79A-257, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 05-04-054, § 180-79A-257, filed 1/28/05, effective 2/28/05; 04-21-005, § 180-79A-257, filed 10/7/04, effective 11/7/04; 04-04-011, § 180-79A-257, filed 1/23/04, effective 2/23/04; 04-04-009, § 180-79A-257, filed 1/23/04, effective 2/23/04; 01-18-043, § 180-79A-257, filed 8/29/01, effective 9/29/01; 01-13-108, § 180-79A-257, filed 6/20/01, effective 7/21/01; 00-23-005, § 180-79A-257, filed 11/2/00, effective 12/3/00; 00-03-048, § 180-79A-257, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-257, filed 12/23/98, effective 1/23/99.]

WAC 181-79A-260 Establishing equivalency for course work, degrees and programs completed in countries outside the United States. Certification candidates who have completed degree and/or approved professional preparation programs in a country other than the United States may be required to provide one or more of the following:

(1) A transcript from a regionally accredited United States college or university indicating that the college/university has accepted the degree as equivalent to its degree.

(2) A statement of degree equivalency for the appropriate degree from a foreign credentials' evaluation agency approved by the office of the superintendent of public instruction.

(3) A statement from an official of the college or university where the certification program was completed, indicating completion of the program and approval of the program by the agency governing certification in that country.

[06-02-051, recodified as § 181-79A-260, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 00-03-050, § 180-79A-260, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-260, filed 12/23/98, effective 1/23/99.]

WAC 181-79A-270 Teacher, principal, and educational staff associate exchange permits. Teacher, principal, and educational staff associate exchange permits may be issued by the superintendent of public instruction to an individual admitted to the United States for the purpose of serving as an exchange teacher, principal, or educational staff associate. Such teacher, principal, or educational staff associate exchange permits shall be valid for one year and may be renewed once.

[06-02-051, recodified as § 181-79A-270, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-270, filed 12/23/98, effective 1/23/99.]

WAC 181-79A-299 Transition policies. The transition to the endorsement policies described in chapter 180-82 [181-82] WAC will include the following policies:

(1) Endorsement requirements as described in WAC 180-79A-300 [181-79A-300] through 180-79A-398 [181-79A-398] shall sunset effective August 31, 2000.

(2) Candidates for endorsements on teacher certificates on, or before, August 31, 2000, shall meet requirements as described in WAC 180-79A-300 [181-79A-300] through 180-79A-398 [181-79A-398]; after August 31, 2000, candidates for endorsements on teacher certificates shall meet requirements as described in chapter 180-82 [181-82] WAC.

(3) Colleges and universities may permit an individual accepted into programs in Washington state on, or before, August 31, 2000, to obtain endorsements under the requirements in WAC 180-79A-300 [181-79A-300] through 180-79A-398 [181-79A-398], if the individual completes the endorsement program on, or before, August 31, 2003, and the college or university verifies endorsement program completion to the superintendent of public instruction on, or before, December 31, 2003.

[06-02-051, recodified as § 181-79A-299, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-23-023, § 180-79A-299, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-299, filed 12/23/98, effective 1/23/99.]

WAC 181-79A-300 Certificate endorsement. Teacher certificates shall be endorsed as follows:

(1) Teacher certificates shall specify endorsements in subject area(s) and grade level(s).

(2) In order to change or add an endorsement to any teaching certificate, the candidate must complete an application, pay the certification fee specified in WAC 180-79A-130 [181-79A-130], and submit verification of completion of the necessary requirements specified in this chapter.

[06-02-051, recodified as § 181-79A-300, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010, 00-18-064, § 180-79A-300, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010, 99-06-006, § 180-79A-300, filed 2/18/99, effective 3/21/99; 98-01-027, § 180-79A-300, filed 12/8/97, effective 1/8/98; 97-04-088, § 180-79A-300, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-302 Authorized endorsement for teachers. Endorsements for grade levels, and subject areas within such grade levels, for certificated teachers shall be limited to the following:

(1) Preschool through grade three endorsements shall be granted in the subject area of:

- (a) Early childhood special education;
- (b) Early childhood education.

(2) Grade kindergarten through grade eight endorsements shall be granted in the subject area of elementary education which shall include all subject areas taught in such grades.

(3) Grade kindergarten through grade twelve endorsements shall be granted in:

- (a) Art;
- (b) Music (broad subject area endorsement) and the specialized subject areas of:
 - (i) Choral music;
 - (ii) Instrumental music;

- (c) Physical education;
- (d) Reading;
- (e) Designated foreign language;
- (f) Special education;
- (g) Learning resources;
- (h) English as a second language;
- (i) Bilingual education.

(4) Grade four through grade twelve endorsements shall be granted in:

(a) English/language arts (broad subject area endorsement) and the specialized English/language arts subject areas of:

- (i) Drama;
- (ii) English;
- (iii) Journalism;
- (iv) Speech.

(b) Science (broad subject area endorsement) and the specialized science subject areas of:

- (i) Biology;
- (ii) Chemistry;
- (iii) Earth science;
- (iv) Physics.

(c) Social studies (broad subject area endorsement) and the specialized social studies subject areas of:

- (i) Anthropology;
- (ii) Economics;
- (iii) Geography;
- (iv) History;
- (v) Political science;
- (vi) Psychology;
- (vii) Sociology.

(d) The specialized subject areas of:

(i) Comparative religion;

(ii) Instructional technology (formerly computer science);

- (iii) Health;
- (iv) Mathematics;
- (v) Philosophy.

(e) The vocational areas of:

- (i) Agriculture education;
- (ii) Business education;
- (iii) Family and consumer sciences education;
- (iv) Marketing education;
- (v) Technology education (formerly industrial arts).

(5) Traffic safety endorsements may be noted on certificates issued under this chapter if the candidate meets the requirements of the regulations promulgated by the superintendent of public instruction pursuant to RCW 28A.220.020 (3).

[06-02-051, recodified as § 181-79A-302, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 98-01-027, § 180-79A-302, filed 12/8/97, effective 1/8/98; 97-04-088, § 180-79A-302, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-304 Minimum preparation for endorsements for teachers. Endorsements granted teachers shall comply with the following:

(1) Endorsements—with the exception of the broad subject area endorsements of English/language arts, music, science, and social studies, and the areas of agriculture education, business education, family and consumer sciences edu-

cation, marketing education, and technology education which shall require the satisfactory completion of a minimum of forty-five quarter hours (thirty semester hours) of course work—shall require the satisfactory completion of a minimum of twenty-four quarter hours (sixteen semester hours) of course work in the subject area in a regionally accredited institution of higher education or in a college or university with a professional preparation program approved by the state board of education pursuant to chapter 180-78A [181-78A] WAC.

(2) Reasonable flexibility shall be permitted in establishing equivalencies for specified subject area course work. The test for substitution of an equivalent course for a stated subject area course is a factual determination that the subject matter content of the equivalent course, or combination of courses, substantially complies with the generally recognized course content of the subject area course.

(3) Course work used to meet endorsement requirements must be completed through a regionally accredited college/university and may not include student teaching credits.

(4) Only course work in which an individual received a grade of C (2.0) or higher or a grade of pass on a pass-fail system of grading shall be counted toward the required minimum number of credit hours as defined in WAC 180-79A-304 [181-79A-304].

(5) Except as otherwise specified in this chapter or in chapter 180-82 [181-82] WAC, when existing requirements regarding the number of credit hours, the titles for endorsements, and/or the essential areas of study are revised by the state board of education for any endorsement area, the candidate may, until the first day of September following two calendar years from the effective date of the rule change, obtain the endorsement by completing either the previous or the revised requirements. Following the September first date established above, all candidates shall meet the revised requirements to obtain an endorsement.

[06-02-051, recodified as § 181-79A-304, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-79A-304, filed 12/23/98, effective 1/23/99. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-304, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-306 Subject area endorsement recommendations by colleges and universities. Applicants for subject area endorsements may apply directly to a Washington college or university with an approved preparation program in the particular subject area. Only applicants who have provided sufficient evidence of completion of the required course work and the essential areas of study for the particular subject area endorsement or who have passed written examinations pursuant to WAC 180-79A-308 [181-79A-308] shall be recommended, by the college or university, to the superintendent of public instruction for an endorsement in such subject area: Provided, That nothing within this chapter precludes a college or university from adopting additional requirements as conditions for recommendation, by such college or university, to the superintendent of public instruction for a particular subject area endorsement.

[06-02-051, recodified as § 181-79A-306, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-306, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-308 Endorsement by examination. In lieu of completing the required number of credit hours and the essential areas of study, or any portion of such requirements, individuals may add endorsements to an initial or continuing teaching certificate by examination in one of the following ways:

Washington colleges and universities with an approved preparation program for teachers may waive all or any portion of the requirement for a particular endorsement and recommend the candidate to the superintendent of public instruction for the particular endorsement if the following conditions are met:

(1) The candidate is required to demonstrate subject matter competency for all or a portion of the requirement waived through passage of one or more written examinations.

(2) In the case of waiver of an essential area of study, a faculty member regularly responsible for teaching a course which covers that essential area of study must attest to the fact that the proposed examination is of sufficient scope and depth to evaluate the candidate's knowledge of the essential area of study.

[06-02-051, recodified as § 181-79A-308, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 03-19-019, § 180-79A-308, filed 9/5/03, effective 10/6/03; 97-04-088, § 180-79A-308, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-310 Subject area endorsements through SPI. Applicants for subject area endorsements may apply directly to the superintendent of public instruction for a particular subject area endorsement. The application for a particular subject area endorsement shall include the following:

(1) A list of the essential areas of study for a particular subject area endorsement.

(2) Space for the applicant to document the college or university credit hours and/or approved in-service education programs which meet the credit hour requirements in the essential area of study.

(3) Space for the applicant to list all college or university credit hours and approved in-service education programs which are applicable to the minimum credit hour requirements and to indicate which type of evidence—i.e., college transcripts, in-service records, or other reliable documentation—will be forwarded to the superintendent of public instruction.

(4) An affidavit to be signed by the applicant that the information submitted is accurate.

[06-02-051, recodified as § 181-79A-310, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 97-04-088, § 180-79A-310, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-312 Award of college or university credit hours for experience. College and/or university credit hours awarded by accredited institutions of higher education for knowledge acquired in occupational or other experiences shall be recognized as meeting the minimum course work credit hours and/or the essential areas of study for a particular subject area endorsement if the college or university notes on its issued transcript that credit hours have been awarded for specific courses offered by such college or university.

[06-02-051, recodified as § 181-79A-312, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 97-04-088, § 180-79A-312, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-315 In-service in lieu of college and university credit hours. The following shall govern the substitution of approved in-service education—i.e., sponsored by an approved in-service education provider pursuant to chapter 180-85 [181-85] WAC—toward the minimum course work credit hours for a particular subject area endorsement and/or for meeting an essential area of study:

(1) The in-service education program must be offered by an in-service education agency approved pursuant to chapter 180-85 [181-85] WAC.

(2) The in-service education program must be specifically designed by the in-service education agency to serve as a substitute for course work in the specified subject area or areas and/or as meeting a designated essential area of study. The criterion for determining whether the in-service education program is specifically designed for such purpose is whether the in-service program's content is recognized as equivalent in content to what is generally recognized as the content of an equivalent course in an accredited college or university.

(3) The length of the in-service education program is at least ten continuing education hours.

(4) The in-service education agency must hold the recipient accountable for successful completion of the in-service education program through evaluation by an examination or some other work product provided by the recipient.

(5) The in-service education agency must provide the recipient with a letter, certificate, or other written document which indicates the following:

(a) The in-service education agency has been approved by the state board of education.

(b) The subject area or areas and/or the designated essential area of study for which the in-service education program was specifically designed to meet.

(c) The number of continuing education hours awarded.

(d) A statement that the recipient received a passing mark on an examination or some other work product which was evaluated by the in-service education agency.

(6) The in-service education agency must provide the superintendent of public instruction with the following fourteen calendar days prior to commencement of the in-service program:

(a) The dates and location of places where the in-service program will be offered.

(b) The names and qualification of the instructor or instructors who will be assisting in the in-service program.

(c) An outline of the topics to be covered within each in-service session.

(d) A description of the examination or work product which will be used to evaluate the participants.

(e) An invitation for a representative of the superintendent of public instruction and representative of the professional education advisory committee to attend and observe the in-service program.

(7) Upon completion of an in-service education program, the in-service education agency must provide the superintendent of public instruction the following:

(a) A copy of all program materials distributed to participants.

(b) A copy of the evaluation instrument and the results therefrom.

(8) Provided, That no more than one-third of the minimum course work credit hours required for a subject area endorsement may be met through in-service based on ten hours of approved in-service education for one-quarter hour of credit.

[06-02-051, recodified as § 181-79A-315, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-315, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-317 Evaluation of in-service in lieu of college and university credit hours by PEAC. The professional education advisory committee shall review materials submitted to the superintendent of public instruction pursuant to WAC 180-79A-315 [181-79A-315], conduct an evaluation of such in-service programs, and report to the superintendent of public instruction and the state board of education its recommendation regarding the continuation of such program and/or the advisability of removing or modifying the limitation on number of in-service credit hours that may be applied to an endorsement.

[06-02-051, recodified as § 181-79A-317, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-317, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-320 Agriculture education—Subject area endorsements. In order to receive an endorsement in agriculture education, the candidate shall have completed the minimum course work credit hours in the subject area of agriculture—e.g., agriculture, agronomy, and animal science—including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Plant science, agronomy, or horticulture.
- (2) Soil science.
- (3) Animal science or animal husbandry.
- (4) Agriculture mechanics.
- (5) Agriculture economics.

[06-02-051, recodified as § 181-79A-320, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-320, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-322 Anthropology—Subject area endorsement. In order to receive an endorsement in anthropology, the candidate shall have completed the minimum course work credit hours in the subject area of anthropology, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Cultural anthropology.
- (2) Physical anthropology.
- (3) Archeology.

[06-02-051, recodified as § 181-79A-322, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-322, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-324 Art—Subject area endorsement. In order to receive an endorsement in art, the candidate shall have completed the minimum course work credit hours in the

subject area of art, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Art history or criticism.
- (2) Aesthetics or philosophy of art.
- (3) Drawing.
- (4) Painting.
- (5) Sculpture.
- (6) Instructional methods in art.

[06-02-051, recodified as § 181-79A-324, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-324, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-326 Bilingual education—Subject area endorsement. In order to receive an endorsement in bilingual education, the candidate shall have completed the minimum course work credit hours in the subject area of bilingual education, which shall include, but not be limited to, one-half or more of the minimum course work credit hours for an endorsement in a designated foreign language and credit hours in each of the following essential areas of study:

- (1) Linguistics.
- (2) Instructional methods in English as a second language.
- (3) History and/or theories of bilingual education.
- (4) Instructional methods in bilingual education.

[06-02-051, recodified as § 181-79A-326, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-326, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-328 Biology—Subject area endorsement. In order to receive an endorsement in biology, the candidate shall have completed the minimum course work credit hours in the subject area of biology, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Genetics.
- (2) Ecology or evolution theory.
- (3) Botany, including laboratory experience therein.
- (4) Zoology, including laboratory experience therein.
- (5) Laboratory management and safety.
- (6) Science technology and society or bioethics.

[06-02-051, recodified as § 181-79A-328, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-328, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-330 Business education—Subject area endorsement. In order to receive an endorsement in business education, the candidate shall have completed the minimum course work credit hours in the subject area of business education—e.g., business administration, business education, and accounting—including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Business organization or management.
- (2) Office procedures or applications.
- (3) Information processing, word processing, or machine transcription.
- (4) Microcomputer application.
- (5) Instructional methods in keyboarding.
- (6) Instructional methods in accounting.

[06-02-051, recodified as § 181-79A-330, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-330, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-332 Chemistry—Subject area endorsement. In order to receive an endorsement in chemistry, the candidate shall have completed the minimum course work credit hours in the subject area of chemistry, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Organic chemistry, including laboratory experience therein.
- (2) Inorganic chemistry, including laboratory experience therein.
- (3) Analytic chemistry, including laboratory experience therein.
- (4) Physical chemistry.
- (5) Laboratory management and safety.

[06-02-051, recodified as § 181-79A-332, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-332, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-333 Comparative religion—Subject area endorsement. In order to receive an endorsement in comparative religion, the candidate shall have completed the minimum course work credit hours in the subject area of comparative religion, including but not limited to, credit hours in each of the essential areas of, history and/or development of comparative religious thought, and issues and trends in modern religions, plus two other essential areas of study:

- (1) History and/or development of comparative religious thought.
- (2) Issues and trends in modern religions.
- (3) Ethics.
- (4) Aesthetics.
- (5) Epistemology.
- (6) Metaphysics.
- (7) Logic.
- (8) History of philosophy.

[06-02-051, recodified as § 181-79A-333, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-333, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-334 Instructional technology (formerly computer science)—Subject area endorsement. In order to receive an endorsement in instructional technology, the candidate shall have completed the minimum course work credit hours in the subject area of instructional technology, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Technology and society, i.e., ethical use.
- (2) Computer networks and telecommunication system, e.g., internet.
- (3) Instructional hardware usage and classroom applications.
- (4) Instructional software, including word processing, data base management systems, spreadsheets and use of multimedia tools, e.g., sound, video, hypertext, and graphics.
- (5) Development of student learning activities which integrate technology tools and telecommunications.

[06-02-051, recodified as § 181-79A-334, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-334, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-336 Designated foreign language—Subject area endorsement. In order to receive an endorsement in a designated foreign language, the candidate shall have completed the minimum course work credit hours in the subject area of the designated foreign language, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Writing/composition in the designated foreign language.
- (2) Conversation in the designated foreign language.
- (3) Reading in the designated foreign language.
- (4) History and culture of the designated foreign language.

[06-02-051, recodified as § 181-79A-336, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-336, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-338 Drama—Subject area endorsement. In order to receive an endorsement in drama, the candidate shall have completed the minimum course work credit hours in the subject area of drama, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Acting skills.
- (2) Theater production.
- (3) Theater history or history of drama.
- (4) Creative drama.
- (5) Theater directing.

[06-02-051, recodified as § 181-79A-338, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-338, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-340 Early childhood education, regular—Subject area endorsement. This endorsement can only be added to a certificate endorsed in elementary education or special education. In order to receive an endorsement in early childhood education, regular, the candidate shall have completed the minimum course work credit hours (twenty-four quarter credit hours or sixteen semester credit hours) in the subject area of early childhood education, elementary education, or special education: Provided, That no less than twelve quarter (eight semester) credit hours must specifically address the field of early childhood education, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Understanding the dynamics of family structure and involving parents in early childhood programs.
- (2) Methods and curriculum development in early academic skill areas, including:
 - (a) Communication skills, emerging literacy, and language arts;
 - (b) Math and science concepts; and
 - (c) Social studies.
- (3) Methods and curriculum development in the arts (art and music).
- (4) Knowledge of typical and atypical growth and development for early childhood learning.

(5) Knowledge of requirements for promoting health, safety, nutrition, and social competence.

(6) Strategies for environmental design and management of physical space, equipment, and material to provide maximum opportunities for early childhood learning.

(7) Current issues and trends in early childhood education.

[06-02-051, recodified as § 181-79A-340, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 98-05-023, § 180-79A-340, filed 2/6/98, effective 3/9/98; 97-04-088, § 180-79A-340, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-342 Early childhood education, special education—Subject area endorsement. In order to receive an endorsement in early childhood education, special education, the candidate shall have completed the minimum course work credit hours in the subject area of special education and early childhood education, the credit hours in each of the essential areas of study for an endorsement in the subject area of special education, and credit hours in each of the following essential areas of study:

- (1) Issues and trends in early childhood education.
- (2) Instructional methods in early childhood education.

[06-02-051, recodified as § 181-79A-342, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-342, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-344 Earth science—Subject area endorsement. In order to receive an endorsement in earth science, the candidate shall have completed the minimum course work credit hours in the subject area of earth science—e.g., geology, mineralogy, oceanography, astronomy, and meteorology—including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Physical geology.
- (2) Historical geology.
- (3) Environmental geology.
- (4) Oceanography.
- (5) Astronomy.
- (6) Meteorology.

[06-02-051, recodified as § 181-79A-344, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-344, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-346 Economics—Subject area endorsement. In order to receive an endorsement in economics, the candidate shall have completed the minimum course work credit hours in the subject area of economics, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Macroeconomics.
- (2) Microeconomics.
- (3) History and/or development of economic thought.

[06-02-051, recodified as § 181-79A-346, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-346, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-348 Elementary education—Subject area endorsement. In order to receive an endorsement in elementary education, the candidate shall have completed the minimum course work credit hours in the subject area of elementary education, including, but not limited to, credit hours in each of the following essential areas of study:

mentary education, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Child growth and development.
- (2) Classroom organization and management.
- (3) Instructional methods in reading.
- (4) Instructional methods in mathematics.
- (5) Instructional methods in language arts.
- (6) Instructional methods in science.
- (7) Instructional methods in social studies.
- (8) Instructional methods in art.
- (9) Instructional methods in music.
- (10) Instructional methods in physical education.
- (11) Instructional methods in health education.

[06-02-051, recodified as § 181-79A-348, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-348, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-350 English—Subject area endorsement. In order to receive an endorsement in English, the candidate shall have completed the minimum course work credit hours in the subject area of English, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Writing/composition.
- (2) American literature.
- (3) World literature representing a variety of diverse cultures, including British literature.
- (4) Linguistics or structure of language.

[06-02-051, recodified as § 181-79A-350, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-350, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-352 English as a second language—Subject area endorsement. In order to receive an endorsement in English as a second language, the candidate shall have completed the minimum course work credit hours in the subject area of English as a second language—e.g., English, elementary education, and English as a second language—including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Structure of language or language acquisition.
- (2) Culture and learning for the ESL student.
- (3) Instructional methods in language arts for the ESL student.
- (4) Instructional methods in reading for the ESL student.
- (5) Instructional methods in English as a second language.

[06-02-051, recodified as § 181-79A-352, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-352, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-354 English/language arts—Broad subject area endorsement. In order to receive an endorsement in English/language arts, the candidate shall have completed the minimum course work credit hours in the specialized subject areas of English/language arts, the credit hours in each of the essential areas of study for an English subject area endorsement, and credit hours selected from the essential areas of study in each of the specialized English/language arts subject areas of:

- (1) Drama.

- (2) Speech.
- (3) Journalism.

[06-02-051, recodified as § 181-79A-354, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-354, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-356 Geography—Subject area endorsement. In order to receive an endorsement in geography, the candidate shall have completed the minimum course work credit hours in the subject area of geography, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Physical geography.
- (2) Human or cultural geography.
- (3) Economic geography.
- (4) North American or other regional geography.
- (5) Map reading and analysis.

[06-02-051, recodified as § 181-79A-356, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-356, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-358 Health—Subject area endorsement. In order to receive an endorsement in health, the candidate shall have completed the minimum course work credit hours in the subject area of health, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Substance use and abuse.
- (2) Wellness and illness.
- (3) Nutrition.
- (4) Human physiology.
- (5) Safety education.

[06-02-051, recodified as § 181-79A-358, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-358, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-360 History—Subject area endorsement. In order to receive an endorsement in history, the candidate shall have completed the minimum course work credit hours in the subject area of history, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Washington state or Pacific Northwest history and government.
- (2) United States history.
- (3) World, Western, or Pacific Rim history or civilizations.

[06-02-051, recodified as § 181-79A-360, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-360, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-362 Family and consumer sciences education (formerly home and family life education)—Subject area endorsement. In order to receive an endorsement in family and consumer sciences education, the candidate shall have completed the minimum course work credit hours in the subject area of family and consumer sciences education, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Family relations.
- (2) Child growth and development.

- (3) Nutrition.
- (4) Consumer education or resource management.

[06-02-051, recodified as § 181-79A-362, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-362, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-364 Technology education (formerly industrial arts)—Subject area endorsement. In order to receive an endorsement in technology education, the candidate shall have completed the minimum course work credit hours in the subject area of technology education, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Industrial safety.
- (2) Technology education.
- (3) Industrial arts program management.
- (4) Manufacturing, construction, communications, or transportation.

[06-02-051, recodified as § 181-79A-364, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-364, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-366 Marketing education—Subject area endorsement. In order to receive an endorsement in marketing education, the candidate shall have completed the minimum course work credit hours in the subject area of marketing education—e.g., business administration, business or marketing education, and economics—including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Selling.
- (2) Economics.
- (3) Retail management.

[06-02-051, recodified as § 181-79A-366, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-366, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-368 Journalism—Subject area endorsement. In order to receive an endorsement in journalism, the candidate shall have completed the minimum course work credit hours in the subject area of journalism, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) News and feature writing.
- (2) Copy editing.
- (3) News production.
- (4) Copy makeup and design.
- (5) Legal rights and liabilities of the press.

[06-02-051, recodified as § 181-79A-368, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-368, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-370 Learning resources—Subject area endorsement. In order to receive an endorsement in learning resources, the candidate shall have completed the minimum course work credit hours in the subject area of learning resources, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Library/media materials selection.
- (2) Materials production.
- (3) Literature for children and young adults.

- (4) Information services.
- (5) Learning resources management.
- (6) Instructional methods in learning resources.

[06-02-051, recodified as § 181-79A-370, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-370, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-372 Mathematics—Subject area endorsement. In order to receive an endorsement in mathematics, the candidate shall have completed the minimum course work credit hours in the subject area of mathematics, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Euclidean geometry.
- (2) Non-Euclidean geometry.
- (3) Differential calculus.
- (4) Integral calculus.
- (5) Discrete mathematics.

[06-02-051, recodified as § 181-79A-372, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-372, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-374 Music—Broad subject area endorsement. In order to receive an endorsement in music, the candidate shall have completed the minimum course work credit hours in the subject area of music, the requirements for an endorsement in the specialized subject areas of choral music and instrumental music, and at least an additional six quarter (four semester) hours of credit hours of performance experience in both choral music and instrumental music.

[06-02-051, recodified as § 181-79A-374, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-374, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-376 Choral music—Subject area endorsement. In order to receive an endorsement in choral music, the candidate shall have completed the minimum course work credit in the subject area of music, including at least three quarter hours (two semester hours) of performance experience in choral music, and credit hours in each of the following essential areas of study:

- (1) Score reading.
- (2) Music theory.
- (3) Music history and/or culture.
- (4) Conducting.
- (5) Instructional methods in choral music.
- (6) Instructional methods in general music.

[06-02-051, recodified as § 181-79A-376, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-376, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-378 Instrumental music—Subject area endorsement. In order to receive an endorsement in instrumental music, the candidate shall have completed the minimum course work credit hours in the subject area of music, including at least three quarter hours (two semester hours) of performance experience in instrumental music, and credit hours in each of the following essential areas of study:

- (1) Score reading.
- (2) Music theory.

- (3) Music history and/or culture.
- (4) Conducting.
- (5) Instructional methods in instrumental music.
- (6) Instructional methods in general music.

[06-02-051, recodified as § 181-79A-378, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-378, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-379 Philosophy—Subject area endorsement. In order to receive an endorsement in philosophy, the candidate shall have completed the minimum course work credit hours in the subject area of philosophy, including but not limited to, credit hours in a minimum of four of the following areas of essential study:

- (1) Ethics.
- (2) Aesthetics.
- (3) Epistemology.
- (4) Metaphysics.
- (5) Logic.
- (6) History of philosophy.

[06-02-051, recodified as § 181-79A-379, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-379, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-380 Physical education—Subject area endorsement. In order to receive an endorsement in physical education, the candidate shall have completed the minimum course work credit hours in the subject area of physical education, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Care and prevention of student injury including first aid.
- (2) Kinesiology.
- (3) Exercise physiology.
- (4) School physical education, sports, or athletic law.
- (5) Sociology and/or psychology of sports.
- (6) Instructional methods in physical education for the handicapped.
- (7) Instructional methods in physical education.

[06-02-051, recodified as § 181-79A-380, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-380, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-382 Physics—Subject area endorsement. In order to receive an endorsement in physics, the candidate shall have completed the minimum course work credit hours in the subject area of physics, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Mechanics, including laboratory experience therein.
- (2) Electricity and magnetism, including laboratory experience therein.
- (3) Light and sound, including laboratory experience therein.
- (4) Thermodynamics, modern physics, or astronomy.

[06-02-051, recodified as § 181-79A-382, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-382, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-384 Political science—Subject area endorsement. In order to receive an endorsement in political science, the candidate shall have completed the minimum course work credit hours in the subject area of political science, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) American government.
- (2) International relations or studies.
- (3) Comparative government or political systems.
- (4) Political theory.

[06-02-051, recodified as § 181-79A-384, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-384, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-386 Psychology—Subject area endorsement. In order to receive an endorsement in psychology, the candidate shall have completed the minimum course work credit hours in the subject area of psychology, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Human behavior.
- (2) Learning theories.
- (3) Developmental psychology.
- (4) Interpersonal psychology.

[06-02-051, recodified as § 181-79A-386, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-386, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-388 Reading—Subject area endorsement. In order to receive an endorsement in reading, the candidate shall have completed the minimum course work credit hours in the subject area of reading, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Reading development.
- (2) Reading diagnosis and prescription.
- (3) Children and adolescent literature.
- (4) Instructional methods in reading.
- (5) Instructional methods in reading in the content areas.

[06-02-051, recodified as § 181-79A-388, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-388, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-390 Science—Broad subject area endorsement. In order to receive an endorsement in science, the candidate shall have completed the minimum course work credit hours in the specialized subject areas of science, the credit hours in each of the essential areas of study for a chemistry, physics, biology, or earth science subject area endorsement, and at least nine quarter (six semester) credit hours selected from the essential areas of study in each of the specialized science subject areas of:

- (1) Chemistry, including laboratory experience therein.
- (2) Physics, including laboratory experience therein.
- (3) Biology, including laboratory experience therein.
- (4) Earth science.

[06-02-051, recodified as § 181-79A-390, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-390, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-392 Sociology—Subject area endorsement. In order to receive an endorsement in sociology, the candidate shall have completed the minimum course work credit hours in the subject area of sociology, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Group behavior.
- (2) Social institutions.
- (3) Social process.
- (4) Theory and history of sociology.

[06-02-051, recodified as § 181-79A-392, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-392, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-394 Social studies—Broad subject area endorsement. In order to receive an endorsement in social studies, the candidate shall have completed the minimum course work credit hours in the specialized subject areas of social studies, the credit hours in each of the essential areas of study for a history subject area endorsement, credit hours in American government, and credit hours selected from the essential areas of study in each of the specialized social studies subject areas of:

- (1) Economics.
- (2) Anthropology, sociology, or psychology.
- (3) Geography.

[06-02-051, recodified as § 181-79A-394, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-394, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-396 Special education—Subject area endorsement. In order to receive an endorsement in special education, the candidate shall have completed the minimum course work credit hours in the subject area of special education, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Exceptionality.
- (2) Alternative delivery systems and strategies for special education.
- (3) Student assessment and evaluation.
- (4) Procedural and substantive legal issues in special education.
- (5) Instructional methods in special education.

[06-02-051, recodified as § 181-79A-396, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-396, filed 2/5/97, effective 3/8/97.]

WAC 181-79A-398 Speech—Subject area endorsement. In order to receive an endorsement in speech, the candidate shall have completed the minimum course work credit hours in the subject area of speech, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Public speaking.
- (2) Debate.
- (3) Group process.
- (4) Interpersonal communication.

[06-02-051, recodified as § 181-79A-398, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-088, § 180-79A-398, filed 2/5/97, effective 3/8/97.]

Chapter 181-82 WAC

CERTIFICATE ENDORSEMENTS AND
ASSIGNMENT OF CERTIFICATED PERSONNEL

WAC

181-82-002	Authority.
181-82-004	Purposes.
181-82-105	Assignment of classroom teachers within districts.
181-82-110	Exceptions to classroom teacher assignment policy.
181-82-120	Assignment of principals and assistant principals within districts.
181-82-125	Assignment of educational staff associates.
181-82-130	Assignment of persons providing instruction of Braille to students.
181-82-135	Assignment waivers.
181-82-200	Purpose of endorsement requirements.
181-82-201	Grade designations for endorsements obtained after August 31, 2000.
181-82-202	Certificate endorsements.
181-82-204	Endorsement requirements.
181-82-210	Primary and supporting endorsements.
181-82-215	Implementation policies.
181-82-300	Bilingual education—All levels, (supporting).
181-82-303	Designated arts: Dance—All levels, primary.
181-82-304	Designated arts: Dance—All levels (supporting).
181-82-307	Designated arts: Drama—All levels, primary.
181-82-308	Designated arts: Drama—All levels, supporting.
181-82-310	Designated arts: Choral, instrumental, or general music—All levels, primary.
181-82-311	Designated arts: Choral, instrumental, or general music—All levels, supporting.
181-82-312	Designated arts: Visual arts—All levels, primary.
181-82-313	Designated arts: Visual arts—All levels, supporting.
181-82-314	Designated science: Biology—Secondary, primary.
181-82-315	Designated science: Biology—Secondary, supporting.
181-82-316	Designated science: Chemistry—Secondary, primary.
181-82-317	Designated science: Chemistry—Secondary, supporting.
181-82-318	Designated science: Earth science—Secondary, primary.
181-82-319	Designated science: Earth science—Secondary, supporting.
181-82-320	Designated science: Physics—Secondary, primary.
181-82-321	Designated science: Physics—Secondary, supporting.
181-82-322	Designated career and technical education—Secondary, primary.
181-82-324	Designated world languages—All levels, primary.
181-82-326	Designated world languages—All levels, supporting.
181-82-328	Early childhood education—Primary.
181-82-330	Early childhood education—Supporting.
181-82-331	Early childhood special education—Primary.
181-82-332	Elementary education—Primary.
181-82-334	English—Secondary, primary.
181-82-335	English—Secondary, supporting.
181-82-336	English/language arts—Secondary, primary.
181-82-338	English as a second language—All levels, primary.
181-82-339	English as a second language—All levels, supporting.
181-82-340	Health/fitness—All levels, primary.
181-82-341	Health/fitness—All levels, supporting.
181-82-342	History—Secondary, primary.
181-82-343	History—Secondary, supporting.
181-82-344	Library media—All levels, primary.
181-82-346	Library media—All levels, supporting.
181-82-348	Mathematics—Secondary, primary.
181-82-349	Mathematics—Secondary, supporting.
181-82-350	Middle level, primary.
181-82-352	Reading—All levels, primary.
181-82-354	Reading—All levels, supporting.
181-82-355	Science—Secondary, primary.
181-82-356	Social studies—Secondary, primary.
181-82-360	Special education—All levels, primary.

WAC 181-82-002 Authority. The authority for this chapter is chapter 28A.410 RCW which authorizes the state board of education to establish, publish, and enforce rules and regulations determining eligibility for the certification of personnel employed in the common schools of this state. This authority is supplemented by RCW 28A.305.130(5) which authorizes the state board of education to specify the types

and kinds of certificates necessary for the several departments within the common schools and by RCW 28A.150.220(4) which authorizes the state board of education to adopt rules that implement and ensure compliance with the basic program of education requirements of RCW 28A.150.250, 28A.150.260, and 28A.150.220 and such related basic program of education requirements as may be established by the state board of education.

[06-02-051, recodified as § 181-82-002, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-002, filed 1/21/99, effective 2/21/99.]

WAC 181-82-004 Purposes. The purposes of this chapter are to:

- (1) Establish policies for the assignment of certificated personnel within districts; and
- (2) Establish policies and conditions for obtaining endorsements on teaching certificates.

[06-02-051, recodified as § 181-82-004, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-004, filed 1/21/99, effective 2/21/99.]

WAC 181-82-105 Assignment of classroom teachers within districts. In addition to holding teaching permits or certificates as required by WAC 180-16-220(2), the assignment of classroom teachers in the basic program of education shall comply with the following:

(1) Classroom teachers with standard or unendorsed continuing teacher certificates may be assigned to any grade or subject areas for which certification is required.

(2) Classroom teachers with initial, residency, endorsed continuing, or professional teacher certificates may be assigned only to the specified grades and specified subject areas stated as endorsements upon their respective certificates or permits.

(3) Classroom teachers with initial, residency, endorsed continuing, or professional teacher certificates who have an elementary education endorsement may be assigned to teach any subject in grades K-8.

(4) Any certificated teacher who has completed twenty-four quarter hours (sixteen semester hours) of academic study in a content area that will be offered in grades four through nine may be assigned to that course even if the teacher does not hold an endorsement in that area.

(5) Any certificated teacher may be assigned to a middle school or junior high school block program, which for the purpose of this section shall be defined as the same teacher assigned to teach two or more subject areas to the same group of students, if the teacher has an endorsement in one of the subject areas and has completed or will complete within one year nine quarter hours in each of the other subject areas.

(6) Upon determination by school districts that teachers have the competencies to be effective teachers in alternative settings, individuals with initial, residency, endorsed continuing, or professional teacher certificates may be assigned to teach in alternative schools.

(7) Any certificated teacher may be assigned to courses offered in basic education subject areas not included with the list of endorsements specified in WAC 180-82-202 [181-82-202].

(8) Any certificated teacher may be assigned to serve as a substitute classroom teacher at any grade level or in any subject area for a period not to exceed thirty consecutive school days in any one assignment.

(9) Any certificated person holding a limited certificate as specified in WAC 180-79A-230 [181-79A-230] or a career and technical education certificate as specified in chapter 180-77 [181-77] WAC may be assigned as per the provisions of such section or chapter.

(10) If a teacher is assigned to provide special education, then the district must also comply with WAC 392-172-200 and 392-172-202.

(11)(a) For the purpose of this section, the term "specified subject areas" shall mean courses or classes with the same subject area title as specified by the classroom teacher's endorsement and courses or classes which the board of directors of the district, using the endorsement-related assignment table published by the state board of education as a nonbinding guideline, determines to substantially include the same subject area as the endorsement—e.g., a classroom teacher with a health endorsement may be assigned to any course, regardless of course title, which substantially includes health as the subject area.

(b) The endorsement-related assignment table published by the state board of education may not be changed without prior state board of education approval. Endorsement-related assigned classroom teachers must be evaluated annually specific to the assignment and achieve a satisfactory rating to continue in the assignment.

(12) Exceptions to the assignment requirements of subsection (1) of this section must comply with WAC 180-82-110 [181-82-110].

(13) School district compliance with this section shall be subject to the state staff review process specified in WAC 180-16-195(2).

[06-02-051, recodified as § 181-82-105, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 03-23-039, § 180-82-105, filed 11/12/03, effective 12/13/03; 02-18-038, § 180-82-105, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4), 02-04-018, § 180-82-105, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-04-008, § 180-82-105, filed 1/21/99, effective 2/21/99.]

WAC 181-82-110 Exceptions to classroom teacher assignment policy. Exceptions to the classroom teacher assignment policy specified in WAC 180-82-105 [181-82-105] shall be limited to the following:

(1) Upon determination by school districts that teachers have the competencies to be effective teachers in areas other than their endorsed areas, individuals with initial, residency, endorsed continuing, or professional teacher certificates who have completed provisional status with a school district under RCW 28A.405.220 may be assigned to classes other than in their areas of endorsement. If teachers are so assigned, the following shall apply:

(a) A designated representative of the district and any such teacher so assigned shall mutually develop a written plan which provides for necessary assistance to the teacher, and which provides for a reasonable amount of planning and study time associated specifically with the out-of-endorsement assignment;

(b) Such teachers shall not be subject to nonrenewal or probation based on evaluations of their teaching effectiveness in the out-of-endorsement assignments;

(c) Such teaching assignments shall be approved by a formal vote of the local school board for each teacher so assigned; and

(d) The assignment of such teachers for the previous school year shall be reported annually to the state board of education by the employing school district as required by WAC 180-16-195. Included in the report shall be the number of teachers in out-of-endorsement assignments and the specific assistance being given to the teachers.

(2) Teachers with initial, residency, endorsed continuing, or professional teacher certificates who have not completed provisional status with a school district under RCW 28A.405.220 may be assigned to one out-of-endorsement assignment for a maximum of two periods (not more than forty percent full-time equivalent) a day. Conditions described in subsection (1)(a) through (d) of this section shall apply to teachers so assigned.

(3) After August 31, 2000, a teacher who has completed twenty-four quarter credit hours (sixteen semester credit hours) of course work applicable to a special education endorsement shall be eligible for a waiver from the special education office which will allow that person to be employed as a special education teacher. All remaining requirements shall be completed within five years of service as a special education teacher. Teachers who hold certificates endorsed in special education or who have received waivers from the special education office prior to September 1, 2000, shall not be affected by the requirements of this subsection.

[06-02-051, recodified as § 181-82-110, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 03-04-023, § 180-82-110, filed 1/27/03, effective 2/27/03. Statutory Authority: RCW 28A.150.220(4), 28A.305.130(1), 28A.410.018, 00-18-063, § 180-82-110, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-04-008, § 180-82-110, filed 1/21/99, effective 2/21/99.]

WAC 181-82-120 Assignment of principals and assistant principals within districts. No person shall be assigned within the basic program of education to serve as principal or assistant principal unless such person holds a certificate or permit pursuant to WAC 180-79A-140(3) [181-79A-140(3)].

[06-02-051, recodified as § 181-82-120, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 and 28A.410.010, 02-18-037, § 180-82-120, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-04-008, § 180-82-120, filed 1/21/99, effective 2/21/99.]

WAC 181-82-125 Assignment of educational staff associates. No person shall be assigned within the basic program of education to serve in a specific educational staff associate role, as identified in WAC 180-79A-140 [181-79A-140], unless such person holds a certificate or permit endorsed for such specific role.

[06-02-051, recodified as § 181-82-125, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-04-008, § 180-82-125, filed 1/21/99, effective 2/21/99.]

WAC 181-82-130 Assignment of persons providing instruction of Braille to students. (1) No certificated school district employee shall be assigned to provide instruction of Braille to students who has not demonstrated competency with the grade two standard literary Braille code by:

- (a) Successful completion of the National Literary Braille Competency Test; or
- (b) Successful completion of the Braille competency test developed at Portland State University; or
- (c) Successful completion of any other test approved for use by the state board of education.

(2) No classified school district employee working under the supervision of a certificated school district employee, which certificated employee meets the requirement of subsection (1) of this section, may produce Braille material or provide instruction in the Braille code unless the employee has demonstrated competency with the grade two standard literary Braille code as provided under subsection (1) of this section.

(3)(a) Each school district is responsible for monitoring the appropriate assignment of personnel under subsections (1) and (2) of this section.

(b) Any person under subsections (1) and (2) of this section shall have one year from the date of request to successfully pass the testing requirement under subsection (1) of this section.

(c) The Washington Instructional Resource Center for the Visually Impaired shall forward to the state board of education the names of individuals who have passed the testing requirement under subsection (1) of this section and the date of passage. The center also shall forward to the state board the names of individuals who have not passed the testing requirement within one year and the name of the employing school district of the individual.

(4) The state board shall establish a test review committee which shall be responsible for developing criteria to evaluate a test under subsection (1)(c) of this section. No test shall be considered for approval by the state board under subsection (1)(c) of this section unless it has been evaluated by the test review committee and a recommendation for approval or disapproval has been submitted to the board. At a minimum, the membership of the committee shall include persons representing:

- (a) National Federation of the Blind of Washington;
- (b) Washington council of the blind;
- (c) Association of education and rehabilitation of the blind and visually impaired of Washington;
- (d) Washington instructional resource center for the visually impaired;
- (e) Washington state school for the blind; and
- (f) Office of the superintendent of public instruction.

(5) A person who has met the requirement of subsection (1) of this section shall maintain their facility with the grade two standard literary Braille code by:

- (a) Completing ten hours every five years of continuing education; or
- (b) Successful completion every five years of one of the tests under subsection (1) of this section.

(6)(a) For the purpose of subsection (5)(a) of this section, the continuing education option may be satisfied by:

(i) Completing the equivalent of ten clock hours through completion of college credits as provided under WAC 180-85-030 [181-85-030] (1) and (2); or

(ii) Completing ten clock hours of continuing education as provided under WAC 180-85-030 [181-85-030] (3) and (4); or

(iii) Completing the equivalent of ten clock hours through completion of continuing education units through a college or university. One continuing education unit shall equal not fewer than ten clock hours of attendance.

(b) For the purpose of subsection (5)(a) of this section, "continuing education" shall mean one or more of the following:

- (i) Instructional methodology in Braille;
- (ii) Improving Braille code skills; or
- (iii) Maintaining or refreshing Braille code skills, not including technology or software. "Braille code skills" means literary, music, and the Nemeth code of mathematics and scientific notation.

(c) For the purpose of subsection (5)(a) of this section, an approved provider of continuing education may include:

- (i) The National Braille Association;
- (ii) The Library of Congress;
- (iii) The Braille Authority of North America;
- (iv) A regionally accredited institution of higher education under WAC 180-78A-010(6) [181-78A-010(6)];
- (v) An educational service district;
- (vi) The American Foundation for the Blind;
- (vii) The Association of Education and Rehabilitation of the Blind and Visually Impaired of Washington;
- (viii) The American Foundation for the Blind annual American Braille literacy conference; or
- (ix) Any other entity approved by the state board of education based upon a recommendation to approve from the test review committee established under subsection (4) of this section.

(d) For the purpose of subsection (1) of this section, a person who holds a Library of Congress transcriber's certificate is exempt only from the testing requirement under subsection (1) of this section. If an individual earns the Library of Congress transcriber's certificate, they shall be deemed to have met the continuing education option under subsection (5)(a) of this section.

(e) Individuals who seek through subsection (5)(a) of this section to remain eligible to work with visually impaired students are responsible for documenting completion of continuing education. Such individuals are strongly encouraged to provide a copy of their documentation to their employing school district. The documentation shall not be collected by the state board of education. However, the documentation could be audited for purposes of compliance with basic education appropriation requirements under WAC 180-16-195.

[06-02-051, recodified as § 181-82-130, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010, 28A.150.220(4). 01-13-110, § 180-82-130, filed 6/20/01, effective 7/21/01; 99-04-008, § 180-82-130, filed 1/21/99, effective 2/21/99.]

WAC 181-82-135 Assignment waivers. On a case-by-case basis, the state board of education may waive the provisions of WAC 180-82-105 [181-82-105] through 180-82-130 [181-82-130] upon written application by a school district

board of directors. The application shall detail the rationale for the waiver request. The waiver may be granted subject to any conditions and stipulations as the state board determines.

[06-02-051, recodified as § 181-82-135, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130. 01-04-020, § 180-82-135, filed 1/29/01, effective 3/1/01.]

WAC 181-82-200 Purpose of endorsement requirements. The purposes of the endorsement requirements in chapter 180-82 [181-82] WAC are:

(1) To align requirements for endorsements with the state's learning goals and essential academic learning requirements;

(2) To maintain rigorous standards for obtaining endorsements; and

(3) To provide school districts with teachers who are able to demonstrate a positive impact on student learning.

[06-02-051, recodified as § 181-82-200, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-200, filed 1/21/99, effective 2/21/99.]

WAC 181-82-201 Grade designations for endorsements obtained after August 31, 2000. In order to implement the state's reform legislation, schools are reorganizing by developmental levels, by benchmarks, by student performance, etc. Therefore, the designation of mandatory grade levels on certificates for assignment purposes, no longer appears appropriate. The state board of education does, however, wish to provide guidance to school districts in the placement of its certified staff and to colleges and universities in developing preparation programs by providing the following guidelines for grade and age designations:

(1) Early childhood: Birth to third grade (age eight).

(2) Elementary: Kindergarten (age five) to grade eight (age fourteen).

(3) Middle level: Grade four (age nine) to grade nine (age fifteen).

(4) Secondary: Grade five (age ten) to grade twelve (age eighteen).

(5) All levels: Preschool (birth) to grade twelve (age eighteen).

[06-02-051, recodified as § 181-82-201, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-201, filed 1/21/99, effective 2/21/99.]

WAC 181-82-202 Certificate endorsements. Teacher certificates shall be endorsed as follows, except as otherwise provided in WAC 180-79A-257 [181-79A-257] (1)(d):

(1) **All levels:**

(a) Bilingual education, (supporting).

(b) Designated arts: Dance, (primary and supporting).

(c) Designated arts: Drama, (primary and supporting).

(d) Designated arts: Music: Choral, instrumental or general, (primary and supporting).

(e) Designated arts: Visual arts, (primary and supporting).

(f) Designated world languages, (primary and supporting).

(g) English as a second language, (primary and supporting).

(h) Health/fitness, (primary and supporting).

(i) Library media, (primary and supporting).

(j) Reading, (primary and supporting).

(k) Special education, (primary).

(2) **Early childhood:**

(a) Early childhood education, (primary and supporting).

(b) Early childhood special education, (primary).

(3) **Elementary education,** (primary).

(4) **Middle level,** (primary).

(5) **Secondary level:**

(a) Designated science: Biology, (primary and supporting).

(b) Designated science: Chemistry, (primary and supporting).

(c) Designated science: Earth science, (primary and supporting).

(d) Designated science: Physics, (primary and supporting).

(e) Designated career and technical education: Agriculture education, business education, family and consumer sciences education, marketing education, and technology education, (primary).

(f) English, (primary and supporting).

(g) English/language arts, (primary).

(h) History, (primary and supporting).

(i) Mathematics, (primary and supporting).

(j) Science, (primary).

(k) Social studies, (primary).

(6) **Traffic safety** endorsements may be noted on certificates issued under chapter 180-79A [181-79A] WAC if the candidate meets the requirements of the regulations promulgated by the superintendent of public instruction pursuant to RCW 28A.220.020(3).

[06-02-051, recodified as § 181-82-202, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-82-202, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010. 01-13-108, § 180-82-202, filed 6/20/01, effective 7/21/01; 00-18-061, § 180-82-202, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-23-023, § 180-82-202, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-202, filed 1/21/99, effective 2/21/99.]

WAC 181-82-204 Endorsement requirements. (1) Candidates for all primary teaching endorsements shall complete college/university programs approved by the state board of education pursuant to chapter 180-78A [181-78A] WAC, which include methodology (see WAC 180-78A-264(5) [181-78A-264(5)]) and field experience/internship (see WAC 180-78A-264(7) [181-78A-264(7)]).

(2) Candidates for all supporting teaching endorsements shall complete college/university programs approved by the state board of education pursuant to chapter 180-78A [181-78A] WAC, which shall include methodology (see WAC 180-78A-264(5) [181-78A-264(5)]). The requirement for field experience/internship for a supporting endorsement shall be at the discretion of the college/university: Provided, That in cases where programs require a field experience/internship the colleges and universities should make every attempt to allow the individual to complete field-based requirements for the endorsement within the confines of the individual's existing schedule.

(3) Teachers may add an endorsement by achieving National Board certification in a Washington teaching endorsement area and possessing a valid National Board certificate.

(4) The state board of education shall approve teacher preparation programs for each endorsement program at Washington colleges and universities, pursuant to chapter 180-78A [181-78A] WAC.

(5) Candidates from out-of-state shall be required to present verification that they completed a state-approved program in a Washington endorsement area, except as otherwise provided in WAC 180-79A-257 [181-79A-257] (1)(d).

(6) Course work used to meet endorsement requirements must be completed through a regionally accredited college/university.

(7) Only course work in which an individual received a grade of C (2.0) or higher or a grade of pass on a pass-fail system of grading shall be counted toward the course work required for the approved endorsement program.

(8) Nothing within this chapter precludes a college or university from adopting additional requirements as conditions for recommendation, by such college or university, to the superintendent of public instruction for a particular subject area endorsement.

[06-02-051, recodified as § 181-82-204, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 03-14-114, § 180-82-204, filed 6/30/03, effective 7/31/03; 01-13-108, § 180-82-204, filed 6/20/01, effective 7/21/01; 00-09-047, § 180-82-204, filed 4/14/00, effective 5/15/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-204, filed 1/21/99, effective 2/21/99.]

WAC 181-82-210 Primary and supporting endorsements. (1) All endorsements obtained under the requirements in chapter 180-82 [181-82] WAC shall be designated as either primary or supporting endorsements on teaching certificates.

(2) All candidates for teaching certificates shall be required to obtain a primary endorsement, except as otherwise provided in WAC 180-79A-257 [181-79A-257] (1)(d).

(3) Primary endorsements shall require a minimum of forty-five quarter credit hours (thirty semester credit hours) of academic study (or its equivalent) in the endorsement area: Provided, That primary endorsements for broad area endorsements (i.e., English/language arts, science, and social studies) shall require sixty quarter credit hours (forty semester credit hours) of academic study (or its equivalent) in the endorsement area.

(4) Supporting endorsements shall require a minimum of twenty-four quarter credit hours (sixteen semester credit hours) of academic study (or its equivalent) in the endorsement area.

(5) The state board of education or its designee may establish performance/competency criteria for obtaining an endorsement.

[06-02-051, recodified as § 181-82-210, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 01-13-108, § 180-82-210, filed 6/20/01, effective 7/21/01. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2), 99-23-023, § 180-82-210, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-210, filed 1/21/99, effective 2/21/99.]

WAC 181-82-215 Implementation policies. (1) All teachers who obtain endorsements after August 31, 2000, shall meet the requirements in chapter 180-82 [181-82] WAC: Provided, That colleges and universities may permit an individual accepted into programs in Washington state on, or before, August 31, 2000, to obtain endorsements under the requirements in WAC 180-79A-300 [181-79A-300] through 180-79A-398 [181-79A-398], if the individual completes the endorsement program on, or before, August 31, 2003, and the college or university verifies endorsement program completion to the superintendent of public instruction on, or before, December 31, 2003: Provided further, That the state board of education or its designee may waive this requirement on a case-by-case basis.

(2) Teachers applying for a continuing or professional certificate after August 31, 2000, shall be required to obtain only one endorsement.

[06-02-051, recodified as § 181-82-215, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2), 99-23-023, § 180-82-215, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-215, filed 1/21/99, effective 2/21/99.]

WAC 181-82-300 Bilingual education—All levels, (supporting). In order to obtain a supporting endorsement in bilingual education, the candidate shall have completed a primary endorsement in another endorsement area, shall have demonstrated proficiency in the English language, shall have completed a state approved preparation program in bilingual education which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Language acquisition theory.
- (2) Cross-cultural teaching and learning strategies.
- (3) Literacy development (reading, writing, listening, speaking).
- (4) History and theory of bilingual education.
- (5) Instructional strategies for bilingual education.
- (6) Demonstrated proficiency in a targeted foreign language.

[06-02-051, recodified as § 181-82-300, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-300, filed 1/21/99, effective 2/21/99.]

WAC 181-82-303 Designated arts: Dance—All levels, primary. In order to receive a primary endorsement in designated arts: Dance, the candidate shall have completed a state approved preparation program in designated arts: Dance which shall be comprised of the appropriate pedagogy courses and field experience/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below and shall have demonstrated a level of artistic and technical proficiency appropriate for his/her dance concentration. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the col-

lege/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Elements of dance.
- (2) Composition, improvisation, or choreography.
- (3) Dance science.
- (4) Dance production.
- (5) Social, cultural, and historical contexts and connections.
- (6) Equipment and facilities safety.

[06-02-051, recodified as § 181-82-303, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 00-18-061, § 180-82-303, filed 9/1/00, effective 10/2/00.]

WAC 181-82-304 Designated arts: Dance—All levels (supporting). In order to receive a supporting endorsement in designated arts: Dance, the candidate shall have completed a primary endorsement in another endorsement area, shall have completed a state approved preparation program in designated arts: Dance which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) in the subject areas below and shall have demonstrated a level of artistic and technical proficiency appropriate for his/her dance concentration. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Elements of dance.
- (2) Composition, improvisation, or choreography.
- (3) Dance science.
- (4) Dance production.
- (5) Social, cultural, and historical contexts and connections.
- (6) Equipment and facilities safety.

[06-02-051, recodified as § 181-82-304, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-304, filed 1/21/99, effective 2/21/99.]

WAC 181-82-307 Designated arts: Drama—All levels, primary. In order to receive a primary endorsement in designated arts: Drama, the candidate shall have completed a state approved preparation program in designated arts: Drama which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Acting skills, including improvisational and script-based.
- (2) Theatrical design and construction.
- (3) Directing.
- (4) Stage management.
- (5) Analysis and criticism of both script and performances.
- (6) Equipment, materials, and facilities safety.

[06-02-051, recodified as § 181-82-307, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 00-18-061, § 180-82-307, filed 9/1/00, effective 10/2/00.]

WAC 181-82-308 Designated arts: Drama—All levels, supporting. In order to receive a supporting endorsement in designated arts: Drama, the candidate shall have completed a primary endorsement in another endorsement area, shall have completed a state approved preparation program in designated arts: Drama which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Acting skills, including improvisational and script-based.
- (2) Theatrical design and construction.
- (3) Directing.
- (4) Stage management.
- (5) Analysis and criticism of both script and performances.
- (6) Equipment, materials, and facilities safety.

[06-02-051, recodified as § 181-82-308, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-308, filed 1/21/99, effective 2/21/99.]

WAC 181-82-310 Designated arts: Choral, instrumental, or general music—All levels, primary. In order to receive a primary endorsement in designated arts: Choral, instrumental, or general music, the candidate shall have completed a state approved preparation program in designated arts: Choral, instrumental, or general music which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Performance in-depth study of instrument or voice.
- (2) Aural skills and analysis.
- (3) Composition and improvisation.
- (4) Performance repertory (e.g., instrumental, choral, solo, world music).
- (5) Technology.
- (6) Conducting.
- (7) Arranging.
- (8) Theory analysis of music literature.
- (9) Equipment and facilities safety.
- (10) Social, cultural, and historical contexts and connections.

[06-02-051, recodified as § 181-82-310, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-310, filed 1/21/99, effective 2/21/99.]

WAC 181-82-311 Designated arts: Choral, instrumental, or general music—All levels, supporting. In order to receive a supporting endorsement in designated arts: Choral, instrumental, or general music, the candidate shall have completed a state-approved preparation program in designated arts: Choral, instrumental, or general music which shall include the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) from the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills from the following areas:

- (1) Performance in-depth study of instrument or voice.
- (2) Aural skills and analysis.
- (3) Composition and improvisation.
- (4) Performance repertory (e.g., instrumental, choral, solo, world music).
- (5) Technology.
- (6) Conducting.
- (7) Arranging.
- (8) Theory analysis of music literature.
- (9) Equipment and facilities safety.
- (10) Social, cultural, and historical contexts and connections.

[06-02-051, recodified as § 181-82-311, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 00-09-047, § 180-82-311, filed 4/14/00, effective 5/15/00.]

WAC 181-82-312 Designated arts: Visual arts—All levels, primary. In order to receive a primary endorsement in designated arts: Visual arts, the candidate shall have completed a state approved preparation program in designated arts: Visual arts which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Skills and techniques in multiple media (e.g., painting, sculpture, drawing, computer, photography).
- (2) Composition and production using design principles.
- (3) Analysis and interpretation of art.
- (4) Social, cultural and historical contexts and connections.
- (5) Material, equipment, and facilities safety.

[06-02-051, recodified as § 181-82-312, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-312, filed 1/21/99, effective 2/21/99.]

WAC 181-82-313 Designated arts: Visual arts—All levels, supporting. In order to receive a supporting endorsement in designated arts: Visual arts, the candidate shall have completed a state-approved preparation program in designated arts: Visual arts which shall include the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) from the

subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills from the following areas:

- (1) Skills and techniques in multiple media (e.g., painting, sculpture, drawing, computer, photography).
- (2) Composition and production using design principles.
- (3) Analysis and interpretation of art.
- (4) Social, cultural and historical contexts and connections.
- (5) Material, equipment, and facilities safety.

[06-02-051, recodified as § 181-82-313, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 00-09-047, § 180-82-313, filed 4/14/00, effective 5/15/00.]

WAC 181-82-314 Designated science: Biology—Secondary, primary. In order to receive a primary endorsement in designated science: Biology, the candidate shall have completed a state approved preparation program in designated science: Biology which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Botany with lab.
- (2) Zoology with lab.
- (3) Genetics.
- (4) Microbiology or cellbiology with lab.
- (5) Chemistry with lab.
- (6) Ecology.
- (7) Evolution.
- (8) Lab safety, practice, and management.
- (9) Lab, inquiry-based experience.
- (10) Relationship of the concepts of science to contemporary, historical, technological, and societal issues.

[06-02-051, recodified as § 181-82-314, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-314, filed 1/21/99, effective 2/21/99.]

WAC 181-82-315 Designated science: Biology—Secondary, supporting. In order to receive a supporting endorsement in designated science: Biology, the candidate shall have completed a state approved preparation program in designated science: Biology which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills from the following areas*:

- (1) Botany with lab.
- (2) Zoology with lab.
- (3) Genetics.
- (4) Microbiology or cell biology with lab.
- (5) Chemistry with lab.

- (6) Ecology.
- (7) Evolution.
- (8) Lab safety, practice, and management.
- (9) Lab, inquiry-based experience.
- (10) Relationship of the concepts of science to contemporary, historical, technological, and societal issues.

* Program must include #(8) Lab safety, practice and management.

[06-02-051, recodified as § 181-82-315, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2) and 28A.410.010. 99-07-102, § 180-82-315, filed 3/23/99, effective 4/23/99.]

WAC 181-82-316 Designated science: Chemistry—Secondary, primary. In order to receive a primary endorsement in designated science: Chemistry, the candidate shall have completed a state approved preparation program in designated science: Chemistry which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) General principles of chemistry with lab (i.e., inorganic, physical, and analytical).
- (2) Advanced study in organic chemistry with lab.
- (3) Quantitative analysis with lab.
- (4) Biochemistry with lab.
- (5) Physics.
- (6) Laboratory safety, practice, and management.
- (7) Lab, inquiry-based experience.
- (8) Relationship of the concepts of science to contemporary, historical, technological, and societal issues.

[06-02-051, recodified as § 181-82-316, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-316, filed 1/21/99, effective 2/21/99.]

WAC 181-82-317 Designated science: Chemistry—Secondary, supporting. In order to receive a supporting endorsement in designated science: Chemistry, the candidate shall have completed a state approved preparation program in designated science: Chemistry which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills from the following areas*:

- (1) General principles of chemistry with lab (i.e., inorganic, physical, and analytical).
- (2) Advanced study in organic chemistry with lab.
- (3) Quantitative analysis with lab.
- (4) Biochemistry with lab.
- (5) Physics.
- (6) Lab safety, practice, and management.
- (7) Lab, inquiry-based experience.
- (8) Relationship of the concepts of science to contemporary, historical, technological, and societal issues.

* Program must include #(6) Lab safety, practice and management.

[06-02-051, recodified as § 181-82-317, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2) and 28A.410.010. 99-07-102, § 180-82-317, filed 3/23/99, effective 4/23/99.]

WAC 181-82-318 Designated science: Earth science—Secondary, primary. In order to receive a primary endorsement in designated science: Earth science, the candidate shall have completed a state approved preparation program in designated science: Earth science which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Physical geology.
- (2) Historical geology.
- (3) Environmental issues related to earth science.
- (4) Oceanography.
- (5) Astronomy.
- (6) Meteorology.
- (7) Lab safety, practice, and management.
- (8) Lab, inquiry-based experience.
- (9) Relationship of the concepts of science to contemporary, historical, technological, and societal issues.

[06-02-051, recodified as § 181-82-318, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-318, filed 1/21/99, effective 2/21/99.]

WAC 181-82-319 Designated science: Earth science—Secondary, supporting. In order to receive a supporting endorsement in designated science, the candidate shall have completed a state approved preparation program in designated science: Earth science which shall be comprised of the appropriate pedagogy courses and field experience/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills from the following areas*:

- (1) Physical geology.
- (2) Historical geology.
- (3) Environmental issues related to earth science.
- (4) Oceanography.
- (5) Astronomy.
- (6) Meteorology.
- (7) Lab safety, practice, and management.
- (8) Lab, inquiry-based experience.
- (9) Relationship of the concepts of science to contemporary, historical, technological, and societal issues.

* Program must include #(7) Lab safety, practice and management.

[06-02-051, recodified as § 181-82-319, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2) and 28A.410.010. 99-07-102, § 180-82-319, filed 3/23/99, effective 4/23/99.]

WAC 181-82-320 Designated science: Physics—Secondary, primary. In order to receive a primary endorsement in designated science: Physics, the candidate shall have completed a state approved preparation program in designated science: Physics which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) General principles of physics, with lab.
- (2) Lab safety, practice and management.
- (3) Lab, inquiry-based experience.
- (4) Relationships of the concepts of science to contemporary, historical, technological and societal issues.

[06-02-051, recodified as § 181-82-320, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-320, filed 1/21/99, effective 2/21/99.]

WAC 181-82-321 Designated science: Physics—Secondary, supporting. In order to receive a supporting endorsement in designated science: Physics, the candidate shall have completed a state approved preparation program in designated science: Physics which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) General principles of physics, with lab.
- (2) Lab safety, practice and management.
- (3) Lab, inquiry-based experience.
- (4) Relationships of the concepts of science to contemporary, historical, technological and societal issues.

[06-02-051, recodified as § 181-82-321, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2) and 28A.410.010. 99-07-102, § 180-82-321, filed 3/23/99, effective 4/23/99.]

WAC 181-82-322 Designated career and technical education—Secondary, primary. In order to obtain a primary endorsement in designated career and technical education: Agriculture education, business education, family and consumer sciences education, marketing education, or technology education, the candidate shall have completed a state approved preparation program which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in one of the endorsement areas below. Through completion of this course work and/or an alternative performance based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the general areas below. In addition, the candidate shall have demonstrated the knowledge and skills identified in one of the specific endorsement areas:

- (1) General areas.
 - (a) General and specific safety.
 - (b) Occupational analysis.
 - (c) Philosophy of vocational education.
 - (d) Partnerships - The career and technical education teacher implements and maintains collaborative partnerships with students, colleagues, community, business, industry and families, which maximize resources and promote student self-sufficiency.
 - (e) Personal and professional attributes - The career and technical education teacher models personal and professional attributes and leadership skills which reflect productive life and work roles.

(2) Specific endorsement areas.

(a) **Agriculture education.**

(i) The agriculture education teacher demonstrates essential skills and knowledge including the scientific/technical, safety and career information in the areas of: Natural resource science, agricultural economics, horticultural science, animal science, crop science, soil science, and agricultural technology and management.

(ii) The agriculture education teacher demonstrates a philosophy of education which reflects the unique student/community and industry interaction and includes the technical, personal leadership, and school to work components which comprise a comprehensive agricultural education program.

(iii) The agriculture education teacher develops a comprehensive instructional program based on identified agriculture industry needs while recognizing the social economic, demographic, diversity of the community in consultation with an appropriate advisory committee.

(iv) The agriculture education teacher demonstrates personal and professional leadership skills as an integral part of agriculture programs and applies these competencies through the agriculture education student organization, FFA.

(v) The agriculture education teacher demonstrates the necessary skills and abilities to implement and manage a supervised agriculture experience including: Accounting practices, career experiences, entrepreneurial, and job-related skills.

(vi) The agriculture education teacher develops and maintains a safe environment while dealing with agricultural chemicals, scientific apparatus and solvents during classroom, laboratory, and supervised agricultural experiences.

(vii) The agriculture education teacher is able to develop and demonstrate the scientific process through the preparation of mechanical and research experiences in the classroom, laboratory, leadership, and supervised agriculture experiences.

(b) **Business education.**

(i) The business education teacher demonstrates workplace competencies in keyboarding and information processing, computer technology and applications, information systems and management, accounting principles and applications, business communications, and business systems, and procedures.

(ii) The business education teacher demonstrates the ability to apply the principles of business management and entrepreneurship, leadership, economics, international business, business law, and computation.

(iii) The business education teacher demonstrates teaching competence in keyboarding, information processing, and microcomputer applications; accounting and computation; specific business content areas of business management and procedures, business law, economics, business communications, career development, and work-based coordination; and integration of leadership development into the curriculum and management of Future Business Leaders of America (FBLA) activities.

(c) Family and consumer sciences education.

(i) The family and consumer sciences teacher demonstrates the ability to prepare students for family life and responsible participation and leadership in work and community roles.

(ii) The family and consumer sciences teacher demonstrates knowledge and skills in individual and family wellness; resource creation, access maintenance and management; and individual and family development across the life span.

(iii) The family and consumer sciences teacher creates environments and utilizes strategies which enhance student ability to value diverse populations and their contributions to society.

(iv) The family and consumer sciences teacher demonstrates the ability to advocate for technological and societal change that benefits the family system.

(v) The family and consumer sciences teacher encourages the use of thinking skills and the planning process for problem solving and decision making through the designated career and technical education student organization for family and consumer sciences.

(d) Marketing education.

(i) The marketing education teacher models effective leadership traits and demonstrates the ability to facilitate, supervise, and evaluate DECA student leadership activities.

(ii) The marketing education teacher demonstrates the ability to link classroom learning of work and work-based learning to prepare students for the world of marketing.

(iii) The marketing education teacher demonstrates a commitment to professional development.

(iv) The marketing education teacher applies understanding of the foundations and functions of marketing, management, and entrepreneurial competencies.

(v) The marketing education teacher is able to successfully implement and provide leadership for a school-based enterprise as an instructional strategy.

(vi) The marketing education teacher demonstrates the ability to plan and implement a marketing education program following national and state curriculum guidelines.

(e) Technology education.

(i) The technology education teacher demonstrates knowledge and understanding of systems and concepts related to all areas of technological study referred to as core technologies including: Power and energy, controls, materials science, problem solving, and technology in society.

(ii) The technology education teacher demonstrates knowledge and understanding of the relationship of mathematics, science, computer science, and communications to the technological process.

(iii) The technology education teacher demonstrates competency in the areas of communications, manufacturing,

construction, transportation, and bio-related with a concentration in at least one of the areas.

(iv) The technology education teacher demonstrates ability to manage a traditional shop; as well as convert a traditional shop to an exemplary technology education laboratory.

(v) The technology education teacher demonstrates knowledge and understanding of communications and technological concepts related to technical systems created for encoding, transmitting, receiving, decoding, storing, retrieving, and using information.

(vi) The technology education teacher demonstrates the fundamental knowledge of manufacturing and manufacturing systems and technological concepts related to technical systems associated with research, extraction, processing, recycling, and conversion of materials for consumer and industrial goods.

(vii) The technology education teacher demonstrates fundamental knowledge of construction and construction systems, including the technological concepts related to technical systems associated with the design, creation, and maintenance associated with construction of residential, commercial, industrial, and civil structures; as well as consideration of economics, management, power, and energy.

(viii) The technology education teacher demonstrates knowledge and understanding of transportation systems, including technological concepts related to technical systems associated with the design, development, evaluation, and operation of subsystems, and components of terrestrial, marine, atmospheric, and space vehicles.

(ix) The technology education teacher demonstrates knowledge and understanding of biological systems in areas such as botany, environmental biology, medical, and biotechnology and zoology.

[06-02-051, recodified as § 181-82-322, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-82-322, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. 00-18-064, § 180-82-322, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-322, filed 1/21/99, effective 2/21/99.]

WAC 181-82-324 Designated world languages—All levels, primary. In order to receive a primary endorsement in designated world languages the candidate shall have completed a state approved preparation program in designated world languages which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

(1) Communication in the designated world language: Speaks, understands, reads, and writes in a variety of contexts with a variety of situations.

(2) Culture and language.

(a) Describes, analyzes, and interprets cultural and language practices, products, and perspectives.

(b) Analyzes similarities and differences between United States and designated language cultures (e.g., history, mores, traditions, celebrations, and community context).

(c) Participates in designated world language community.

(3) Interdisciplinary integration (e.g., world languages and educational technology, selected areas in social studies, in language arts and any other suitable area).

(4) A variety of language acquisition theories.

(5) Appropriate methodological study for all levels, including but not limited to, FLES strategies and skills.

[06-02-051, recodified as § 181-82-324, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-324, filed 1/21/99, effective 2/21/99.]

WAC 181-82-326 Designated world languages—All levels, supporting. In order to receive a supporting endorsement in designated world languages, the candidate shall have completed a primary endorsement in another endorsement area, shall have completed a state approved preparation program in designated world languages which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

(1) Communication in the designated world language: Speaks, understands, reads, and writes in a variety of contexts with a variety of situations.

(2) Culture and language.

(a) Describes, analyzes, and interprets cultural and language practices, products, and perspectives.

(b) Analyzes similarities and differences between United States and designated language cultures (e.g., history, mores, traditions, celebrations, and community context).

(c) Participates in designated world language community.

(3) Interdisciplinary integration (e.g., world languages and educational technology, selected areas in social studies, in language arts and any other suitable area).

(4) A variety of language acquisition theories.

[06-02-051, recodified as § 181-82-326, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-326, filed 1/21/99, effective 2/21/99.]

WAC 181-82-328 Early childhood education—Primary. In order to obtain a primary endorsement in early childhood education, the candidate shall have completed a state approved preparation program in early childhood education which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

(1) Dynamics of family structure and involving parents and community agencies in early childhood development.

(2) Curriculum, instruction, and assessment in the following:

(a) Communication skills, emerging literacy, and language arts.

(b) Math and science.

(c) Social studies.

(d) Arts.

(i) Art.

(ii) Music.

(iii) Drama.

(iv) Creative movement/dance.

(e) Health/fitness.

(3) Typical and atypical growth and development (cognitive, linguistic, motor, and social).

(4) Assessment methods designed to measure developmental progress.

(5) Knowledge of requirements for promoting social competence.

(6) Knowledge of exceptionalities and identification of high risk and special needs students, and methods of modifying curriculum, instructional strategies and assessment.

(7) Strategies for environmental design and management of physical space, equipment, and material.

(8) Current issues and trends in early childhood education.

[06-02-051, recodified as § 181-82-328, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-328, filed 1/21/99, effective 2/21/99.]

WAC 181-82-330 Early childhood education—Supporting. In order to obtain a supporting endorsement in early childhood education the candidate shall have completed a primary endorsement in elementary education or special education, shall have completed a state approved preparation program in early childhood education, and shall have completed twenty-four quarter credit hours (sixteen semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

(1) Dynamics of family structure and involving parents and community agencies in early childhood development.

(2) Curriculum, instruction, and assessment in the following:

(a) Communication skills, emerging literacy, and language arts.

(b) Math and science.

(c) Social studies.

(d) The arts.

(i) Visual arts.

(ii) Music.

(iii) Drama.

(iv) Creative movement/dance.

(e) Health/fitness.

(3) Typical and atypical growth and development (cognitive, linguistic, motor, and social) and assessment methods.

(4) Strategies for environmental design and management of physical space, equipment, and material.

(5) Knowledge of requirements for promoting social competence.

(6) Current issues and trends in early childhood education.

[06-02-051, recodified as § 181-82-330, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-330, filed 1/21/99, effective 2/21/99.]

WAC 181-82-331 Early childhood special education—Primary. In order to receive a primary endorsement in early childhood special education, the candidate shall have completed a state approved preparation program in early childhood special education which shall be comprised of the appropriate pedagogy courses and field experiences/internship pursuant to chapter 180-78A [181-78A] WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Typical and atypical growth and development (cognitive, linguistic, motor and social).
- (2) Dynamics of family systems and involving parents and community agencies in early childhood development, including knowledge of cultural and linguistic diversity.
- (3) Exceptionally—defined as an overview of all disabling conditions, including low to high incidence disabilities.
- (4) Curriculum modification and adaptation (including developmental precursors to the essential academic learning requirements), accommodations, special aids, technology, and equipment.
- (5) Age appropriate child assessment and evaluation strategies:
 - (a) Functional analysis of behavior, including caregiver-child interactions.
 - (b) Individualized family service plan/individualized education plan development.
 - (c) Accommodations for the Washington assessment of student learning.
- (6) Strategies for environmental design and management of physical space, equipment, and materials.
- (7) Procedural and substantive legal issues in special education, including provisions for eligible infants and toddlers.
- (8) Least restrictive environment/natural environment/inclusion strategies for early childhood special education.
- (9) Specially designed instruction, including curriculum materials in all developmental domains and content areas.
- (10) Age and developmentally appropriate, effective strategies for teaching pro-social skills and addressing behavioral problems.
- (11) Transition planning for new settings.
- (12) Organization and management systems (i.e., individualized family service plan/individualized education plan, scheduling, evaluation, and recordkeeping/data collection).
- (13) Collaboration, teaming, and partnerships with families, professionals, and related human services agency personnel.
- (14) Supervision of paraprofessionals.

[06-02-051, recodified as § 181-82-331, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). 99-06-005, § 180-82-331, filed 2/18/99, effective 3/21/99.]

WAC 181-82-332 Elementary education—Primary.

In order to receive a primary endorsement in elementary education, the candidate shall have completed a state approved preparation program in elementary education which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78 [181-78A] WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas listed below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills at the developmentally appropriate levels in the following areas:

- (1) Language literacy.
 - (a) Reading strategies.
 - (b) The writing process.
 - (c) Communication.
 - (d) Language skills.
 - (e) Child and adolescent literature.
- (2) Mathematics.
 - (a) Number sense.
 - (b) Measurement.
 - (c) Geometric sense.
 - (d) Probability and statistics.
 - (e) Algebraic sense.
- (3) Science. Life and physical science, including a lab science.
 - (4) Social studies.
 - (a) U.S. history.
 - (b) Geography.
 - (c) Economics.
 - (d) Civics.
 - (5) The arts.
 - (a) Music.
 - (b) Visual arts.
 - (c) Drama.
 - (d) Creative movement/dance.
 - (6) Health/fitness.
 - (a) Foundations of health and fitness.
 - (b) Safe living.

[06-02-051, recodified as § 181-82-332, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-332, filed 1/21/99, effective 2/21/99.]

WAC 181-82-334 English—Secondary, primary.

In order to receive a primary endorsement in English the candidate shall have completed a state approved preparation program in English which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) The reading process (e.g., skills and strategies).
- (2) The writing process (e.g., expository, technical, narrative).
- (3) Communication (e.g., speaking, listening, and analyzing).

(4) Language skills (conventions) and structure (social/historical).

(5) Literature (e.g., American, British, world, and multicultural).

[06-02-051, recodified as § 181-82-334, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-334, filed 1/21/99, effective 2/21/99.]

WAC 181-82-335 English—Secondary, supporting.

In order to receive a supporting endorsement in English the candidate shall have completed a state-approved preparation program in English which shall include the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) from the subject areas below. Through the completion of this course work and/or alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills from the following areas:

- (1) The reading process (e.g., skills and strategies).
- (2) The writing process (e.g., expository, technical, narrative).
- (3) Communication (e.g., speaking, listening, and analyzing).
- (4) Language skills (conventions) and structure (social/historical).
- (5) Literature (e.g., American, British, world, and multicultural).

[06-02-051, recodified as § 181-82-335, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 00-09-047, § 180-82-335, filed 4/14/00, effective 5/15/00.]

WAC 181-82-336 English/language arts—Secondary, primary.

In order to receive a primary endorsement in English/language arts the candidate shall have completed a state approved preparation program in English/language arts which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as sixty quarter credit hours (forty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) The reading process (e.g., skills and strategies).
- (2) The writing process (e.g., expository, technical, narrative).
- (3) Communication (e.g., speech, listening, media analysis, acting, journalism).
- (4) Language skills (conventions) and structure (social/historical).
- (5) American, British, world, multicultural, and adolescent literature, including representation from the following genre: Poetry, drama, fiction, nonfiction, and technical materials.

[06-02-051, recodified as § 181-82-336, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-336, filed 1/21/99, effective 2/21/99.]

WAC 181-82-338 English as a second language—All levels, primary. In order to obtain a primary endorsement in English as a second language, the candidate shall have demonstrated proficiency in the English language and shall have completed a state approved preparation program in English as a second language which shall be comprised of the appropriate pedagogy courses and field experience/internship pursuant to chapter 180-78A [181-78A] WAC as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Language acquisition theory.
- (2) Cross-cultural teaching and learning strategies.
- (3) Literacy development (reading, writing, listening, speaking).
- (4) History and theory of ESL.
- (5) Instructional strategies for ESL.

[06-02-051, recodified as § 181-82-338, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 00-18-061, § 180-82-338, filed 9/1/00, effective 10/2/00.]

WAC 181-82-339 English as a second language—All levels, supporting.

In order to obtain a supporting endorsement in English as a second language, the candidate shall have completed a primary endorsement in another endorsement area, shall have demonstrated proficiency in the English language, shall have completed a state approved preparation program in English as a second language which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Language acquisition theory.
- (2) Cross-cultural teaching and learning strategies.
- (3) Literacy development (reading, writing, listening, speaking).
- (4) History and theory of ESL.
- (5) Instructional strategies for ESL.

[06-02-051, recodified as § 181-82-339, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-339, filed 1/21/99, effective 2/21/99.]

WAC 181-82-340 Health/fitness—All levels, primary.

In order to receive a primary endorsement in health/fitness the candidate shall have completed a state approved preparation program in health/fitness which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Foundations of health and fitness.

(2) Safe living, including first aid and CPR.

(3) Scientific foundations for health and fitness (i.e., anatomy exercise physiology, kinesiology/biomechanics, psychomotor maturation and development, and motor learning).

(4) Movement, activities, and application with attention to special needs populations.

(5) Coordinated health education (i.e., alcohol and other drugs, diseases, injury prevention, human relationships, nutrition, HIV prevention, and abuse prevention).

[06-02-051, recodified as § 181-82-340, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 00-09-047, § 180-82-340, filed 4/14/00, effective 5/15/00.]

WAC 181-82-341 Health/fitness—All levels, supporting. In order to receive a supporting endorsement in health/fitness the candidate shall have completed a state-approved preparation program in health/fitness which shall include the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) from the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university the candidate shall have demonstrated knowledge and skills from the following areas:

(1) Foundations of health and fitness.

(2) Safe living, including first aid and CPR.

(3) Scientific foundations for health and fitness (i.e., anatomy exercise physiology, kinesiology/biomechanics, psychomotor maturation and development, and motor learning).

(4) Movement, activities, and application with attention to special needs populations.

(5) Coordinated health education (i.e., alcohol and other drugs, diseases, injury prevention, human relationships, nutrition, HIV prevention, and abuse prevention).

[06-02-051, recodified as § 181-82-341, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 00-09-047, § 180-82-341, filed 4/14/00, effective 5/15/00.]

WAC 181-82-342 History—Secondary, primary. In order to receive a primary endorsement in history the candidate shall have completed a state-approved preparation program in history which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university the candidate shall have demonstrated knowledge and skills in the following areas:

(1) Pacific Northwest history.

(2) United States history, including chronological, thematic, multicultural, ethnic, and women's history.

(3) World, regional, or country history.

(4) Civics/political science/United States government.

(5) Geography.

(6) Economics.

[06-02-051, recodified as § 181-82-342, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 00-18-061, § 180-82-342, filed

9/1/00, effective 10/2/00; 00-09-047, § 180-82-342, filed 4/14/00, effective 5/15/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-342, filed 1/21/99, effective 2/21/99.]

WAC 181-82-343 History—Secondary, supporting.

In order to receive a supporting endorsement in history the candidate shall have completed a state-approved preparation program in history which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) from the subject areas below. Through the completion of this course work and/or alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills from the following areas:

(1) Pacific Northwest history.

(2) United States history, including chronological, thematic, multicultural, ethnic, and women's history.

(3) World, regional, or country history.

(4) Civics/political science/United States government.

(5) Geography.

(6) Economics.

[06-02-051, recodified as § 181-82-343, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 00-09-047, § 180-82-343, filed 4/14/00, effective 5/15/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-343, filed 1/21/99, effective 2/21/99.]

WAC 181-82-344 Library media—All levels, primary.

In order to receive a primary endorsement in library media, the candidate shall have completed a state approved preparation program in library media which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

(1) Integration of information technologies with essential academic learnings.

(2) Needs assessment, evaluation, and selection of diverse literature, media (print, nonprint, and electronic), and information services for children and young adults.

(3) Understanding and utilization of existing and emerging information technologies.

(4) Media (print, nonprint and electronic) literacy-methods and instruction.

(5) Research and library applications in the curriculum.

(6) Social, ethical, and legal implications of information technologies.

(7) Management of library media program-services and facilities.

(8) Theories and accepted principles of standardized systems of cataloguing, process, and classification.

[06-02-051, recodified as § 181-82-344, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-344, filed 1/21/99, effective 2/21/99.]

WAC 181-82-346 Library media—All levels, supporting. In order to receive a supporting endorsement in library media, the candidate shall have completed a state approved preparation program in library media which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Integration of information technologies with essential academic learnings.
- (2) Needs assessment, evaluation, and selection of diverse literature, media (print, nonprint, and electronic), and information services for children and young adults.
- (3) Understanding and utilization of existing and emerging information technologies.
- (4) Social, ethical and legal implications of information technologies.
- (5) Management of library media program-services and facilities.
- (6) Theories and accepted principles of standardized systems of cataloguing, process, and classification.

[06-02-051, recodified as § 181-82-346, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-016, § 180-82-346, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-346, filed 1/21/99, effective 2/21/99.]

WAC 181-82-348 Mathematics—Secondary, primary. In order to receive a primary endorsement in mathematics, the candidate shall have completed a state approved preparation program in mathematics which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Geometry (Euclidean and non-Euclidean).
- (2) Probability and statistics.
- (3) Calculus (integral and differential).
- (4) Discrete mathematics.
- (5) Logic and problem solving.
- (6) History of math or foundations of math.

[06-02-051, recodified as § 181-82-348, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-348, filed 1/21/99, effective 2/21/99.]

WAC 181-82-349 Mathematics—Secondary, supporting. In order to receive a supporting endorsement in mathematics, the candidate shall have completed a state approved preparation program in mathematics which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) in the subject areas below. Through the completion of this course work and/or an alter-

native performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Geometry (Euclidean and non-Euclidean).
- (2) Probability and statistics.
- (3) Logic and problem solving.
- (4) History of math or foundations of math.

[06-02-051, recodified as § 181-82-349, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2) and 28A.410.010. 99-07-102, § 180-82-349, filed 3/23/99, effective 4/23/99.]

WAC 181-82-350 Middle level, primary. In order to obtain an endorsement in middle level, the candidate shall have completed a state approved preparation program in middle level which shall be comprised of the developmentally appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below:

- (1) A primary area comprised of thirty quarter credit hours (twenty semester credit hours) in either:

- (a) Humanities, including a minimum of ten quarter credit hours (six semester credit hours) from language arts and ten quarter credit hours (six semester credit hours) from social studies with the remaining credit hours taken from language arts and/or social studies to total thirty quarter credit hours (twenty semester credit hours); or

- (b) Math-science, including a minimum of ten quarter credit hours (six semester credit hours) from math and ten quarter credit hours (six semester credit hours) from science with the remaining credit hours taken from math and/or science to total thirty quarter credit hours (twenty semester credit hours); and

- (2) A supporting area comprised of fifteen quarter credit hours (ten semester credit hours) from one of the following:

- (a) Humanities (available only to candidates whose primary area is math-science); or
- (b) Math-science (available only to candidates whose primary area is humanities); or
- (c) Designated arts; or
- (d) Career and technical education; or
- (e) Designated world languages; or
- (f) Health/fitness.

[06-02-051, recodified as § 181-82-350, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). 02-04-018, § 180-82-350, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-350, filed 1/21/99, effective 2/21/99.]

WAC 181-82-352 Reading—All levels, primary. In order to receive a primary endorsement in reading/literacy the candidate shall have completed a state approved preparation program in reading which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Assessment and diagnosis of reading skills and deficiencies.
- (2) Strategies of how to teach reading.
- (a) Scientifically validated research-based instructional strategies.
- (b) Developmental stages/theories of reading.
- (c) Philosophy of reading.
- (3) Language acquisition/integration.
- (4) Social/cultural contexts for literacy.
- (5) Reading process, including decoding, encoding, and student response to child and adolescent literature.
- (6) Beginning literacy (reading, writing, spelling, and communication).
- (7) Reading in the content areas, fiction and nonfiction, including, but not limited to, enriched literature and expository text in the content areas.
- (8) Literacy for a second language learner.
- (9) Meta-cognitive strategies (teaching children to self-assess their reading ability).
- (10) Risk factors for reading difficulties and intervention strategies for students experiencing reading difficulties.

[06-02-051, recodified as § 181-82-352, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-352, filed 1/21/99, effective 2/21/99.]

WAC 181-82-354 Reading—All levels, supporting. In order to receive a supporting endorsement in reading the candidate shall have completed a primary endorsement in another endorsement area, shall have completed a state approved preparation program in reading, which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, and shall have completed twenty-four quarter credit hours (sixteen semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Assessment and diagnosis of reading skills and deficiencies.
- (2) Language acquisition/integration.
- (3) Social/cultural contexts for literacy.
- (4) Beginning literacy (reading, writing, spelling, and communication).
- (5) Reading in the content areas, fiction and nonfiction, including, but not limited to, enriched literature and expository text in the content areas.

[06-02-051, recodified as § 181-82-354, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-354, filed 1/21/99, effective 2/21/99.]

WAC 181-82-355 Science—Secondary, primary. In order to receive a primary endorsement in science the candidate shall have completed a state approved preparation program in science which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as sixty quarter credit hours (forty semester credit hours) in the subject areas below, as follows:

- (1) Forty-five quarter credit hours (thirty semester credit hours) in a designated science area (biology, chemistry, earth

science, or physics), including all the requirements for the endorsement in that area; and

- (2) Fifteen quarter credit hours (ten semester credit hours) from the remaining three science areas, including course work from each of those three areas.

[06-02-051, recodified as § 181-82-355, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-355, filed 1/21/99, effective 2/21/99.]

WAC 181-82-356 Social studies—Secondary, primary. In order to receive a primary endorsement in social studies the candidate shall have completed a state approved preparation program in social studies which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as sixty quarter credit hours (forty semester credit hours) in the subject areas below, including twenty-four quarter credit hours (sixteen semester credit hours) in history. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Pacific Northwest history.
- (2) United States history, including chronological, thematic, multicultural, ethnic and women's history.
- (3) World, regional, or country history.
- (4) Geography.
- (5) Political science, civics, or government.
- (6) Anthropology, psychology, or sociology.
- (7) Economics.

[06-02-051, recodified as § 181-82-356, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-356, filed 1/21/99, effective 2/21/99.]

WAC 181-82-360 Special education—All levels, primary. (See WAC 180-82-110(3) [181-82-110(3)] for information regarding eligibility for a waiver for a candidate who may be assigned to a special education classroom, if he or she has completed twenty-four quarter credit hours (sixteen semester credit hours) of the course work specified below.) In order to receive a primary endorsement in special education, the candidate shall have completed a state approved preparation program in special education which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A [181-78A] WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Exceptionality-defined as an overview of all disabling conditions, including low to high incidence disabling.
- (2) Curriculum modification and adaptation (including modifying the essential academic learning requirements), accommodations, special aids, technology, and equipment.
- (3) Least restrictive environment/inclusion strategies for special education.
- (4) Student assessment and evaluation.
- (a) Functional behavior analysis.

(b) Individualized education plan/individualized family services plan development.

(c) Accommodations for the Washington assessment of student learning.

(5) Procedural and substantive legal issues in special education.

(6) Specially designed instruction including curriculum materials in all content areas.

(7) Effective procedures and strategies for teaching pro-social skills and addressing behavioral problems.

(8) School, family, community partnerships to improve learning for students with disabilities and their families (understanding and applying) knowledge of family systems including cultural and linguistic diversity).

(9) Transition planning for new settings including planning post school outcomes.

(10) Organization and management systems (i.e., individualized education plan/individualized family services plan, scheduling, evaluation, and recordkeeping/data collection).

(11) Methods, issues and trends in early childhood education.

(12) Collaboration, teaming, partnerships, and supervision of paraeducators.

[06-02-051, recodified as § 181-82-360, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-04-008, § 180-82-360, filed 1/21/99, effective 2/21/99.]

Chapter 181-82A WAC

PERFORMANCE-BASED TEACHER CERTIFICATE ENDORSEMENTS

WAC

181-82A-002	Purposes and authority.
181-82A-200	Purposes of endorsement competencies referenced in this chapter.
181-82A-202	Certificate endorsements.
181-82A-204	Endorsement requirements.
181-82A-206	Endorsement program approval.
181-82A-215	Implementation policies.

WAC 181-82A-002 Purposes and authority. (1) The purposes of this chapter are to:

(a) Establish policies and conditions for obtaining performance-based endorsements on teaching certificates.

(b) Establish policies for college/university approval to offer performance-based endorsement programs.

(2) The authority for this chapter is chapter 28A.410 RCW which authorizes the state board of education to establish, publish, and enforce rules and regulations determining eligibility for the certification of personnel employed in the common schools of this state. This authority is supplemented by RCW 28A.305.130(5) which authorizes the state board of education to specify the types and kinds of certificates necessary for the several departments within the common schools and by RCW 28A.150.220(4) which authorizes the state board of education to adopt rules that implement and insure compliance with the basic program of education requirements of RCW 28A.150.220, 28A.150.250, and 28A.150.260, and such related basic program of education requirements as may be established by the state board of education.

[06-02-051, recodified as § 181-82A-002, filed 12/29/05, effective 1/1/06. Statutory Authority: Chapter 28A.410 RCW and RCW 28A.305.130 (1) through (4). 02-04-013, § 180-82A-002, filed 1/24/02, effective 2/24/02.]

WAC 181-82A-200 Purposes of endorsement competencies referenced in this chapter. (1) To align requirements for endorsements with the state's learning goals and essential academic learning requirements;

(2) To align requirements for endorsements with the specialty organization standards where appropriate;

(3) To maintain rigorous standards for obtaining endorsements;

(4) To provide school districts with teachers who are able to demonstrate a positive impact on student learning; and

(5) To complement a performance-based teacher certification system.

[06-02-051, recodified as § 181-82A-200, filed 12/29/05, effective 1/1/06. Statutory Authority: Chapter 28A.410 RCW and RCW 28A.305.130 (1) through (4). 02-04-013, § 180-82A-200, filed 1/24/02, effective 2/24/02.]

WAC 181-82A-202 Certificate endorsements. Teacher certificates shall be endorsed as follows:

(1) All levels:

(a) Bilingual education.

(b) Designated arts: Dance.

(c) Designated arts: Theatre arts.

(d) Designated arts: Music: Choral, instrumental or general.

(e) Designated arts, visual arts.

(f) Designated world languages.

(g) English as a second language.

(h) Health/fitness.

(i) Library media.

(j) Reading.

(k) Special education.

(2) Early childhood:

(a) Early childhood education.

(b) Early childhood special education.

(3) Elementary education.

(4) Middle level:

(a) Middle level—Humanities.

(b) Middle level—Math/science.

(5) Secondary level:

(a) Designated science: Biology.

(b) Designated science: Chemistry.

(c) Designated science: Earth science.

(d) Designated science: Physics.

(e) Designated career and technical education: Agriculture education, business education, family and consumer sciences education, marketing education, and technology education.

(f) English language arts.

(g) History.

(h) Mathematics.

(i) Science.

(j) Social studies.

(k) Traffic safety.

[06-02-051, recodified as § 181-82A-202, filed 12/29/05, effective 1/1/06. Statutory Authority: Chapter 28A.410 RCW and RCW 28A.305.130 (1) through (4). 02-04-013, § 180-82A-202, filed 1/24/02, effective 2/24/02.]

WAC 181-82A-204 Endorsement requirements. (1)

Candidates completing endorsements required to obtain a residency certificate, shall complete college/university teacher preparation programs approved by the state board of education pursuant to chapter 180-78A [181-78A] WAC, which include methodology (see WAC 180-78A-264(5) [181-78A-264(5)]) and field experience/internship (see WAC 180-78A-264(6) [181-78A-264(6)]) and pursuant to endorsement program approval requirements in this chapter.

(2) In order to add an additional endorsement, the candidate shall:

(a) Have completed a state-approved endorsement program which includes methodology (see WAC 180-78A-264(5) [181-78A-264(5)]) and addresses all endorsement-specific competencies adopted by the state board of education and published by the superintendent of public instruction. The requirement for field experience shall be at the discretion of the college/university. Provided, that in cases where programs require a field experience/internship, the colleges/universities should make every attempt to allow the individual to complete field-based requirements for the endorsement within the confines of the individual's teaching schedule; or

(b) Achieve National Board certification in a Washington teaching endorsement area and hold a valid National Board certificate; or

(c) Pass the subject knowledge test approved by the professional educator standards board for the certificate endorsement being sought. The instructional methodology and content-related skills of the desired subject endorsement must be compatible with one or more of the current endorsement(s) on the applicant's teacher certificate, per the list of Pathway 1 endorsements adopted by the state board of education and published by the superintendent of public instruction. The applicant must document a minimum of ninety days teaching experience, in a public or state approved private school, or state agency providing educational services for students, in the endorsement area that is compatible in instructional methodology and content-related skills to the Pathway 1 endorsement; or

(d)(i) Pass the subject knowledge test approved by the professional educator standards board for the certificate endorsement being sought and successfully meet all eligibility criteria and process requirements for Pathway 2 endorsements as adopted by the state board of education and published by the superintendent of public instruction. The desired subject endorsement must be identified as a Pathway 2 endorsement for one or more of the current endorsement(s) on the applicant's teacher certificate, per the list of Pathway 2 endorsements adopted by the state board of education and published by the superintendent of public instruction.

(ii) Teacher preparation programs that offer Pathway 2 endorsement programs shall follow process steps as adopted by the state board of education and published by the superintendent of public instruction to verify successful completion of the Pathway 2 process and to recommend adding the endorsement to the applicant's teacher certificate.

(3) Candidates from out-of-state shall be required to present verification that they completed a state-approved program (equivalent to a major) in a Washington endorsement area.

(4) Course work used to meet endorsement requirements must be completed through a regionally accredited college/university.

(5) Only course work in which an individual received a grade of C (2.0) or higher or a grade of pass on a pass-fail system of grading shall be counted toward the course work required for the approved endorsement program.

(6) Nothing within this chapter precludes a college or university from adopting additional requirements as conditions for recommendation, by such college or university, to the superintendent of public instruction for a particular subject area endorsement.

[06-02-051, recodified as § 181-82A-204, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130. 04-23-007, § 180-82A-204, filed 11/4/04, effective 12/5/04. Statutory Authority: RCW 28A.410.010. 03-14-114, § 180-82A-204, filed 6/30/03, effective 7/31/03. Statutory Authority: Chapter 28A.410 RCW and RCW 28A.305.130 (1) through (4). 02-04-013, § 180-82A-204, filed 1/24/02, effective 2/24/02.]

WAC 181-82A-206 Endorsement program approval.

(1) The state board of education shall approve endorsement programs at Washington colleges and universities pursuant to the requirements of this chapter. Only colleges and universities with state board of education approved residency certificate teacher preparation programs are eligible to apply for approval to offer endorsement programs.

(2) The state board of education will establish performance/competency criteria for obtaining an endorsement. Revision in adopted endorsement competencies may occur only as approved by the state board.

(3) The superintendent of public instruction will publish, and make available, competencies for all endorsement areas identified in chapter 180-82A [181-82A] WAC.

(4) By August 31, 2003, each college or university desiring to establish an endorsement program shall submit a timeline to meet the following requirements for full approval by August 31, 2004:

(a) Identification of strategies that will be used to assess candidates' capacity/performance related to the competencies;

(b) A description of evidences that candidates will provide to document their positive impact on student learning in the endorsement area; and

(c) A description of the assessment system by which candidate performance, relative to the competencies, will be aggregated, analyzed, and used for program improvement.

(5) The state board of education shall approve endorsement programs for a maximum of five years. Each institution shall submit endorsement programs for review when requested by the state board of education to ensure that the endorsement programs meet the competencies and to provide assessment data relative to candidate performance.

(6) The state board of education shall determine the schedule and process for endorsement program reviews.

[06-02-051, recodified as § 181-82A-206, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 03-14-122, § 180-82A-206, filed 6/30/03, effective 7/31/03. Statutory Authority: Chapter 28A.410 RCW and RCW 28A.305.130 (1) through (4). 02-04-013, § 180-82A-206, filed 1/24/02, effective 2/24/02.]

WAC 181-82A-215 Implementation policies. (1) In order to offer an endorsement program after August 31, 2003,

the timeline by which the colleges and universities will be in full compliance with the approval standards in this chapter shall be reviewed and approved. In order to offer an endorsement program after August 31, 2004, the endorsement program shall be reviewed and approved under the approval standards of this chapter. All teachers who obtain endorsements after September 1, 2003, shall meet the requirements in this chapter. Provided, that colleges and universities may permit an individual enrolled in programs in Washington state to obtain endorsements under the requirements in chapter 180-82 [181-82] WAC, if the individual completes the endorsement program on, or before August 31, 2005, and the college or university verifies endorsement program completion on or before December 31, 2005. Provided further, that the state board of education or its designee may waive this requirement on a case-by-case basis.

(2) Teachers shall be required to obtain a minimum of one endorsement.

[06-02-051, recodified as § 181-82A-215, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 03-14-122, § 180-82A-215, filed 6/30/03, effective 7/31/03. Statutory Authority: Chapter 28A.410 RCW and RCW 28A.305.130 (1) through (4), 02-04-013, § 180-82A-215, filed 1/24/02, effective 2/24/02.]

Chapter 181-83 WAC INTERNSHIPS

WAC

181-83-010	Authority.
181-83-020	Definitions.
181-83-030	Internship requirements.
181-83-040	Internship report.
181-83-050	Employment and compensation.
181-83-060	Clock hours.
181-83-070	Effective date.

WAC 181-83-010 Authority. The authority for this chapter is RCW 28A.415.020 and 28A.415.025 which authorize the state board of education to define the term "internship" and establish rules for awarding clock hours for the purpose of placement on the statewide salary allocation schedule for participation of certificated personnel in internships with business, industry, or government.

[06-02-051, recodified as § 181-83-010, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.415.020 and 28A.415.025. 96-04-073, § 180-83-010, filed 2/7/96, effective 3/9/96.]

WAC 181-83-020 Definitions. As used in this chapter, the following definitions shall apply:

(1) "Intern" means a certified instructional staff employee of a school district as defined at RCW 28A.150.-100.

(2) "Internship" or "approved internship" means the actual paid or unpaid work experience performed by an intern in a business, industry, or government setting that meets the requirements set forth in WAC 180-83-030 [181-83-030] and 180-83-040 [181-83-040].

[06-02-051, recodified as § 181-83-020, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.415.020 and 28A.415.025. 96-04-073, § 180-83-020, filed 2/7/96, effective 3/9/96.]

[2006 WAC Supp—page 396]

WAC 181-83-030 Internship requirements. An approved internship with a business, industry, or government agency shall meet the following requirements:

(1) A written plan for the internship experience shall be developed and approved jointly by the intern, a representative on behalf of the school district where the intern is employed, and a representative of the business, industry, or government agency where the internship will take place.

(2) The plan shall:

(a) Provide the intern with the opportunity to learn current practices in business, industry, or government;

(b) Identify the skills and knowledge that will be enhanced and any practical applications of such skills and knowledge in the curriculum they teach; and

(c) Indicate that the internship is directly related to the intern's current education assignment, or to his or her education assignment for the following school year.

[06-02-051, recodified as § 181-83-030, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.415.020 and 28A.415.025. 96-04-073, § 180-83-030, filed 2/7/96, effective 3/9/96.]

WAC 181-83-040 Internship report. (1) Upon completion of the internship, the intern shall submit to the school district a report that includes the following information:

(a) Completion of the requirements under WAC 180-83-030 [181-83-030];

(b) Summary evaluation by the intern of the internship experience;

(c) Summary evaluation by the business, industry, or government agency representative of the intern's experience; and

(d) Whether the internship will be claimed for purposes of recognition on the salary allocation schedule developed by the legislative evaluation and accountability program committee.

(2) The report shall be signed by the intern and business, industry, or government agency representative.

(3) The school district shall forward annually to the state board of education, on or before December 1, the internship reports for the previous school year.

[06-02-051, recodified as § 181-83-040, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.415.020 and 28A.415.025. 96-04-073, § 180-83-040, filed 2/7/96, effective 3/9/96.]

WAC 181-83-050 Employment and compensation. The employment status, if any, of an intern during the internship shall be determined jointly by the intern, school district, and internship provider. Remuneration, and/or benefits, and/or the provision of other employer responsibilities related to the internship shall be established prior to the beginning of the internship. Responsibilities under this section may be shared between the school district and the internship provider.

[06-02-051, recodified as § 181-83-050, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.415.020 and 28A.415.025. 96-04-073, § 180-83-050, filed 2/7/96, effective 3/9/96.]

WAC 181-83-060 Clock hours. (1) Pursuant to RCW 28A.415.020 and 28A.415.025, for each forty clock hours of participation in an approved internship with a business, industry, or government agency, the intern shall receive the

equivalent of one credit college quarter course on the salary allocation schedule developed by the legislative evaluation and accountability program committee.

(2) An intern may not receive more than the equivalent of two college quarter credits for internships during a calendar-year period.

(3) The total number of credits for approved internships that an individual may earn to advance on the salary schedule developed by the legislative evaluation and accountability program committee or its successor agency is limited to the equivalent of fifteen college quarter credits.

(4) It is the responsibility of the intern to monitor compliance with subsections (2) and (3) of this section. A school district shall not recognize more internship clock hours than those recognized under subsections (2) and (3) of this section for purposes of application to the salary allocation schedule developed by the legislative evaluation and accountability program committee.

[06-02-051, recodified as § 181-83-060, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.415.020 and 28A.415.025. 96-04-073, § 180-83-060, filed 2/7/96, effective 3/9/96.]

WAC 181-83-070 Effective date. Approved internship clock hours eligible for application to the salary allocation schedule developed by the legislative evaluation and accountability program committee or its successor agency shall be those hours acquired after December 31, 1995.

[06-02-051, recodified as § 181-83-070, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.415.020 and 28A.415.025. 96-04-073, § 180-83-070, filed 2/7/96, effective 3/9/96.]

Chapter 181-85 WAC

PROFESSIONAL CERTIFICATION—CONTINUING EDUCATION REQUIREMENT

WAC

181-85-005	Authority.
181-85-010	Purpose.
181-85-015	Public policy goal.
181-85-020	Effective date and applicable certificates.
181-85-025	Continuing education—Definition.
181-85-030	Continuing education credit hour—Definition.
181-85-032	Continuing education credit hour—Definition—Internships.
181-85-033	Continuing education credit hour—Definition—Professional growth team consultation and collaboration—School accreditation site visit team participation—National Board for Professional Teaching Standards assessment—Supervisors.
181-85-034	Continuing education credit hour—Definition—Professional development system—Professional growth plan.
181-85-035	Lapse date—Definition.
181-85-040	Lapsed—Definition.
181-85-045	Approved in-service education agency—Definition.
181-85-075	Continuing education requirement.
181-85-077	Continuing education credit—ESAs.
181-85-085	In-service education records.
181-85-100	Calculation of lapse dates.
181-85-105	SPI initial notice to certificate holders of continuing education requirement.
181-85-106	Filing requirement with SPI.
181-85-107	Documentation requirement.
181-85-108	Documentation retention period.
181-85-109	SPI audits of documentation.
181-85-130	Reinstatement of lapsed certificate.
181-85-200	In-service education approval standards.
181-85-205	Required recordkeeping by approved in-service education agencies.
181-85-210	Assurances of compliance with program and record-keeping standards.

181-85-211	Annual approval procedures.
181-85-215	Selective audit of records of in-service education agencies.
181-85-220	Noncompliance—Substantial compliance rule.
181-85-225	Appeal to state board of education.

WAC 181-85-005 Authority. The authority for this chapter is RCW 28A.410.010 which authorizes the state board of education to establish, publish, and enforce rules and regulations determining eligibility for and certification of personnel employed in the common schools of this state. (Note: RCW 28A.195.010 (3)(a) requires most private school classroom teachers to hold appropriate Washington state certification with few exceptions.)

[06-02-051, recodified as § 181-85-005, filed 12/29/05, effective 1/1/06. Statutory Authority: 1990 c 33. 91-04-016, § 180-85-005, filed 1/28/91, effective 2/28/91. Statutory Authority: RCW 28A.70.005. 86-13-018 (Order 8-86), § 180-85-005, filed 6/10/86.]

WAC 181-85-010 Purpose. The purpose of this chapter is to set forth policies and procedures for a program of continuing education as a condition to the validity of certain professional certificates issued by the superintendent of public instruction pursuant to rules and regulations of the state board of education.

[06-02-051, recodified as § 181-85-010, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 86-13-018 (Order 8-86), § 180-85-010, filed 6/10/86.]

WAC 181-85-015 Public policy goal. The public policy goal of this chapter is to promote, recognize, and require the continuing professional and educational development of educators who are certified to practice their professions in the elementary and secondary schools of this state.

[06-02-051, recodified as § 181-85-015, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 86-13-018 (Order 8-86), § 180-85-015, filed 6/10/86.]

WAC 181-85-020 Effective date and applicable certificates. The provisions of this chapter shall apply to the following certificates issued on or after August 31, 1987:

(1) Continuing certificates as provided in chapter 180-79 WAC.

(2) Standard certificates as provided under previous standards of the state board of education.

(3) Professional certificates as provided in chapter 180-79A [181-79A] WAC.

(4) Provided, That applicants who have completed all requirements for a continuing or standard certificates prior to August 31, 1987, and who apply for such certificate prior to July 1, 1988, and applicants who have completed all requirements for a continuing or standard certificate except one of the three-years experience requirement prior to August 31, 1987, and who completes such requirement and applies prior to August 31, 1988, shall be exempt from the continuing education requirements of this chapter.

[06-02-051, recodified as § 181-85-020, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). 99-01-174, § 180-85-020, filed 12/23/98, effective 1/23/99. Statutory Authority: RCW 28A.70.005. 89-01-043 (Order 28-88), § 180-85-020, filed 12/14/88; 87-12-041 (Order 10-87), § 180-85-020, filed 6/1/87; 86-13-018 (Order 8-86), § 180-85-020, filed 6/10/86.]

WAC 181-85-025 Continuing education—Definition.

As used in this chapter, the term "continuing education" shall mean:

(1) All college and/or university credit, normally 100 level or higher, awarded by a regionally accredited institution of higher education, pursuant to WAC 180-78A-010(6) [181-78A-010(6)].

(2) All continuing education credit hours awarded by a vocational-technical college pursuant to WAC 180-85-030(3) [181-85-030(3)] and all continuing education credit hours awarded in conformance with the in-service education procedures and standards specified in this chapter by an approved in-service education agency.

(3) All continuing education credit hours awarded through a business, industry, or government internship that meets the requirements of chapter 180-83 [181-83] WAC, Internships.

(4) All continuing education credit hours awarded in conformance with WAC 180-85-033 [181-85-033] and 180-85-034 [181-85-034].

[06-02-051, recodified as § 181-85-025, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 05-19-104, § 180-85-025, filed 9/20/05, effective 10/21/05; 04-20-094, § 180-85-025, filed 10/5/04, effective 11/5/04; 02-18-050, § 180-85-025, filed 8/28/02, effective 9/28/02; 97-04-086, § 180-85-025, filed 2/5/97, effective 3/8/97. Statutory Authority: RCW 28A.410.010 and 28A.415.025. 96-08-013, § 180-85-025, filed 3/25/96, effective 4/25/96. Statutory Authority: RCW 28A.410.010. 94-01-104, § 180-85-025, filed 12/16/93, effective 1/16/94. Statutory Authority: RCW 28A.70.005. 89-01-043 (Order 28-88), § 180-85-025, filed 12/14/88; 86-13-018 (Order 8-86), § 180-85-025, filed 6/10/86.]

WAC 181-85-030 Continuing education credit hour—Definition. As used in this chapter, the term "continuing education credit hour" shall mean:

(1) For each college or university semester hour credit, fifteen hours of continuing education credit hours shall be granted.

(2) For each college or university quarter hour credit, ten hours of continuing education credit hours shall be granted.

(3) For each sixty minutes of instruction in coursework provided by a vocational-technical college, one continuing education credit hour shall be granted.

(4) For each sixty minutes of approved in-service education including reasonable time for breaks and passing time, one continuing education credit hour shall be granted. In the application of this subsection, the in-service education provider shall determine what is reasonable.

(5) In the application of this section, approved in-service credit hours shall not include:

(a) Routine staff meetings—such as district, building, or area meetings within an agency, district, or building—to discuss or explain operational policies or administrative practices within the agency, district, or building;

(b) Business meetings of professional associations to discuss operational policies or practices of the association;

(c) Social hours or actual meal time.

(6) In the application of this section, for the purpose of official records of the amount of in-service credit hours, the in-service provider or the superintendent of public instruction shall round continuing education credit hours down to the nearest half hour of credits actually completed—i.e., .50, and .00—and in no case shall an applicant receive credit for an in-

service program that was less than a total of three continuing education credit hours.

[06-02-051, recodified as § 181-85-030, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 00-13-065, § 180-85-030, filed 6/16/00, effective 7/17/00; 97-04-086, § 180-85-030, filed 2/5/97, effective 3/8/97. Statutory Authority: RCW 28A.70.005. 89-01-043 (Order 28-88), § 180-85-030, filed 12/14/88; 88-01-086 (Order 16-87), § 180-85-030, filed 12/21/87; 86-13-018 (Order 8-86), § 180-85-030, filed 6/10/86.]

WAC 181-85-032 Continuing education credit hour—Definition—Internships. Notwithstanding the provisions of WAC 180-85-030(6) [181-85-030(6)], for each forty clock hours of participation in an approved internship with a business, industry, or government agency under chapter 180-83 [181-83] WAC, ten continuing education credit hours shall be granted.

[06-02-051, recodified as § 181-85-032, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.415.025. 96-08-013, § 180-85-032, filed 3/25/96, effective 4/25/96.]

WAC 181-85-033 Continuing education credit hour—Definition—Professional growth team consultation and collaboration—School accreditation site visit team participation—National Board for Professional Teaching Standards assessment—Supervisors. (1) Notwithstanding any provisions of this chapter to the contrary, for consultation and collaboration as a member of an approved professional growth team, as defined by WAC 180-78A-010 [181-78A-010] and 180-78A-505 [181-78A-505], members of a professional growth team, excluding the candidate, shall receive the equivalent of ten continuing education credit hours. The team member may not receive more than the equivalent of twenty continuing education credit hours, as defined by this section, during a calendar year period.

(2) A person holding a valid educational certificate pursuant to RCW 28A.410.010 shall receive the equivalent of ten continuing education credit hours for serving on a school accreditation site visit team. The person may not receive more than the equivalent of twenty continuing education credit hours during a calendar year period.

(3)(a) Notwithstanding any provisions of this chapter to the contrary, individuals officially designated as a supervisor by a college/university, school district, educational service district, an approved private school, a state agency providing educational services to students or the superintendent of public instruction, a person holding a valid educational certificate pursuant to RCW 28A.410.010 shall receive the equivalent of ten continuing education credit hours for service as a supervisor. The person may not receive more than the equivalent of twenty continuing education credit hours during a calendar year period.

(b) The term "supervisor" shall mean individuals officially designated as a supervisor by a college/university, school district, educational service district, an approved private school, a state agency providing educational services to students, or the office of superintendent of public instruction for supervising the training of teacher interns, administrative interns, educational staff associate interns, and paraprofessionals.

(4) A person holding a valid educational certificate pursuant to RCW 28A.410.010 shall receive the equivalent of forty-five continuing education credit hours for completion

of an assessment process as part of the National Board for Professional Teaching Standards certificate application. Upon achieving National Board certification, the individual shall receive the equivalent of an additional forty-five continuing education credit hours for a total of ninety continuing education credit hours per National Board certificate.

(5) Notwithstanding any provisions of this chapter to the contrary, for designing and completing a professional growth plan under the provisions of WAC 180-85-034 [181-85-034], participants shall receive the equivalent of no more than sixty continuing education credit hours over a period of two school years, as defined by this chapter.

[06-02-051, recodified as § 181-85-033, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 05-19-104, § 180-85-033, filed 9/20/05, effective 10/21/05; 04-20-094, § 180-85-033, filed 10/5/04, effective 11/5/04; 02-18-050, § 180-85-033, filed 8/28/02, effective 9/28/02.]

WAC 181-85-034 Continuing education credit hour—Definition—Professional development system—Professional growth plan. (1) Beginning September 1, 2005, in order to initiate a process that leads to a performance-based continuing education system, districts and approved private schools may offer educators the opportunity through use of a professional growth plan to earn not more than sixty continuing education credit hours over a period of two school years, in addition to hours earned through WAC 180-85-025 [181-85-025] (1) through (4). Districts/private schools electing to participate must verify as a prerequisite that the following minimum elements of a professional development system are in place:

(a) A professional development system plan describing the use of professional growth plans for continuing education purposes and the accompanying support structure which will be made available to participants shall:

(i) Be approved by the board of directors of the local school district or approved private school.

(ii) In the case of a public school district, be accompanied by a letter of support from the applicable local educational association.

(iii) Include the establishment of a professional development committee consisting of, at a minimum, an educator and administrator representing the building level and a representative of the district or approved private school. This professional development committee is formed to review and approve professional growth plans, and verify continuing education credit hours to be awarded.

(b) A template of an individual professional growth plan, showing how the process described in subsection (3) of this section will be documented, as well as how the plan is tailored to the individual's professional growth needs and aligned with district improvement plans, school improvement plans under WAC 180-16-220, or both.

(2) The district/private school professional development system must be approved by the superintendent of public instruction. Districts shall respond to requests for information from the superintendent of public instruction, for evaluation purposes.

(3) The office of superintendent of public instruction shall publish guidelines on its website as part of the state professional development planning guide to assist districts/private schools with compliance and implementation. Such

guidelines shall include the following minimum essential elements:

(a) An assessment of the needs of each participating educator, including a written reflective analysis.

(b) Preparation of a written individual professional growth plan, with input from the educator's supervisor, that is approved by the professional development committee.

(c) Activities to both implement the plan and gather evidence of its completion.

(d) Verification of completion, including review of evidence and determination, in the professional judgment of the professional development committee, of how many continuing education credit hours are to be awarded.

(4) In making its determination, the professional development committee shall not count continuing education credit hours that can be awarded pursuant to WAC 180-85-025 [181-85-025] (1) through (4).

(a) If documentation/evidence presented is determined to be incomplete or insufficient, the professional development committee shall provide feedback to the educator on the documentation/evidence presented, citing reasons for the decision.

(b) An educator may submit for review by the professional development committee additional documentation and evidence submitted in response to feedback received under (a) of this subsection.

(5) Individuals electing to use professional growth planning for purposes of earning continuing education credit hours may choose to integrate such professional growth planning with that called for in the professional growth option for evaluation established in accordance with RCW 28A.405.-100(5), but they may not be required to do so.

(6) After the first three years of implementation, the superintendent of public instruction will review this option and will provide a report with recommendations, as necessary, to the professional educator standards board.

[06-02-051, recodified as § 181-85-034, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 05-19-103, § 180-85-034, filed 9/20/05, effective 10/21/05.]

WAC 181-85-035 Lapse date—Definition. As used in this chapter, the term "lapse date" shall mean the date upon which the professional certificate affected by this chapter will lapse if the holder fails to complete the continuing education requirement, including the filing requirement of this chapter.

[06-02-051, recodified as § 181-85-035, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 02-04-017, § 180-85-035, filed 1/24/02, effective 2/24/02; 01-13-111, § 180-85-035, filed 6/20/01, effective 7/21/01. Statutory Authority: RCW 28A.70.005, 86-13-018 (Order 8-86), § 180-85-035, filed 6/10/86.]

WAC 181-85-040 Lapsed—Definition. As used in this chapter, the term "lapsed" shall mean that the certificate has expired and such certificate is no longer valid under the laws of the state of Washington.

[06-02-051, recodified as § 181-85-040, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005, 86-13-018 (Order 8-86), § 180-85-040, filed 6/10/86.]

WAC 181-85-045 Approved in-service education agency—Definition. As used in this chapter, the term "approved in-service education agency" shall mean an agency approved by the state board of education to provide in-service education programs and to grant continuing education credit hours to all or a selective group of educators. Such agency must demonstrate the following characteristics:

(1) The agency is one of the following entities or a department or section within such entities:

(a) A college or university referenced in WAC 180-85-025(1) [181-85-025(1)];

(b) An organization which for the purpose of this chapter shall mean any local, state, regional, or national nonprofit organization which offers in-service education programs to teachers, administrators, and/or educational staff associates;

(c) A school district, an educational service district, the superintendent of public instruction, or any state or national agency; or

(d) An approved private school which for the purpose of this chapter shall mean the same as provided in WAC 180-90-112.

(2) The agency has either a committee or board of directors which provides prior approval to proposed in-service education programs on the basis that the proposed programs are designed to meet the program standards set forth in WAC 180-85-200 [181-85-200]. In the case of school districts or educational service districts the committee shall be composed of the same representatives as required by RCW 28A.415.-040—i.e., "representatives from the ranks of administrators, building principals, teachers, classified and support personnel . . . , . . . the public, and . . . institution(s) of higher education,"

[06-02-051, recodified as § 181-85-045, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 92-04-044, § 180-85-045, filed 1/31/92, effective 3/2/92. Statutory Authority: 1990 c 33, 91-04-016, § 180-85-045, filed 1/28/91, effective 2/28/91. Statutory Authority: RCW 28A.70.005, 90-12-076, § 180-85-045, filed 6/1/90, effective 7/2/90; 88-01-086 (Order 16-87), § 180-85-045, filed 12/21/87; 87-09-013 (Order 5-87), § 180-85-045, filed 4/3/87; 86-13-018 (Order 8-86), § 180-85-045, filed 6/10/86.]

WAC 181-85-075 Continuing education requirement. Continuing education requirements are as follows:

(1) Each holder of a continuing certificate affected by this chapter shall be required to complete during a five-year period one hundred fifty continuing education credit hours, as defined in WAC 180-85-025 [181-85-025] and 180-85-030 [181-85-030], prior to the lapse date of the first issue of the continuing certificate and during each five-year period between subsequent lapse dates as calculated in WAC 180-85-100 [181-85-100].

(2) Provided, That each holder of a continuing or a standard certificate affected by this chapter may present a copy of a valid certificate issued by the National Board for Professional Teaching Standards in lieu of the completion of the continuing education credit hours required by this chapter.

[06-02-051, recodified as § 181-85-075, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 05-19-104, § 180-85-075, filed 9/20/05, effective 10/21/05; 02-14-112, § 180-85-075, filed 7/2/02, effective 8/2/02; 02-04-017, § 180-85-075, filed 1/24/02, effective 2/24/02; 01-09-004, § 180-85-075, filed 4/5/01, effective 5/6/01; 99-14-010, § 180-85-075, filed 6/24/99, effective 7/25/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4), 99-01-174, § 180-85-075, filed

12/23/98, effective 1/23/99. Statutory Authority: RCW 28A.70.005, 89-01-043 (Order 28-88), § 180-85-075, filed 12/14/88; 86-13-018 (Order 8-86), § 180-85-075, filed 6/10/86.]

WAC 181-85-077 Continuing education credit—ESAs. Educational staff associates may use credits or clock hours that satisfy continuing education requirements for state professional licensure toward fulfilling state board of education continuing education certification requirements.

[06-02-051, recodified as § 181-85-077, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 04-15-120, § 180-85-077, filed 7/20/04, effective 8/20/04; 92-04-044, § 180-85-077, filed 1/31/92, effective 3/2/92.]

WAC 181-85-085 In-service education records. Holders of certificates affected by this chapter shall retain the necessary in-service records from the approved in-service provider for the purpose of any audit by the superintendent of public instruction. Such holders shall be notified on such form that the intentional misrepresentation of a material fact on such form subjects the holder to revocation of his or her certificate pursuant to chapter 180-86 [181-86] WAC and that a copy of such completed form should be retained by the holder for possible disputes arising under this chapter and for other purposes that may arise, including verification of in-service hours completed for a current or prospective employer.

[06-02-051, recodified as § 181-85-085, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005, 90-12-076, § 180-85-085, filed 6/1/90, effective 7/2/90; 89-01-043 (Order 28-88), § 180-85-085, filed 12/14/88; 88-01-086 (Order 16-87), § 180-85-085, filed 12/21/87.]

WAC 181-85-100 Calculation of lapse dates. The lapse dates of certificates affected by this chapter shall be calculated as follows:

(1) Certificates issued prior to June 30 of a calendar year shall have the lapse date of the certificate calculated on the basis such certificate was issued on June 30 of the same calendar year regardless of the date of issuance.

(2) Certificates issued July 1 or later in the calendar year shall have the lapse date of the certificate calculated on the basis that such certificate was issued on June 30 of the next calendar year regardless of the date of issuance.

(3) If a holder of an affected professional certificate qualifies for a different affected professional certificate—e.g., a holder of a continuing teaching certificate who subsequently qualifies for a continuing administrative certificate—the lapse dates of the new affected professional certificate shall be the same as provided on the first affected certificate.

(4) All valid continuing certificates scheduled to lapse on August 31 of a given year shall be valid until June 30 of the following year.

[06-02-051, recodified as § 181-85-100, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 98-05-024, § 180-85-100, filed 2/6/98, effective 3/9/98. Statutory Authority: RCW 28A.70.005, 90-12-076, § 180-85-100, filed 6/1/90, effective 7/2/90; 86-13-018 (Order 8-86), § 180-85-100, filed 6/10/86.]

WAC 181-85-105 SPI initial notice to certificate holders of continuing education requirement. Upon issuance or reinstatement of an affected professional certificate, the superintendent of public instruction shall notify the

holder of the lapse date and the continuing education requirements of this chapter and the holder's responsibility to keep accurate records demonstrating attendance at approved in-service education programs. In addition, the superintendent of public instruction shall make available to the certificate holder a form which indicates compliance with the continuing education requirements and which includes instruction for filing the report with the superintendent of public instruction.

[06-02-051, recodified as § 181-85-105, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 04-08-054, § 180-85-105, filed 4/2/04, effective 5/3/04. Statutory Authority: RCW 28A.70.005. 90-12-076, § 180-85-105, filed 6/1/90, effective 7/2/90; 86-13-018 (Order 8-86), § 180-85-105, filed 6/10/86.]

WAC 181-85-106 Filing requirement with SPI. Each certificate holder, affected by the continuing education requirements of this chapter, shall be responsible for filing with the superintendent of public instruction, prior to the lapse date, a verification form supplied by the superintendent of public instruction, which indicates compliance with the continuing education requirements of this chapter. Such form shall:

- (1) Provide space for indicating how the certificate holder met the continuing education requirement.
- (2) Include an attestation by the certificate holder as to the accuracy of the information provided.
- (3) State thereon that misrepresentation of any fact shall be an act of unprofessional conduct for which the holder's certificate may be revoked.

[06-02-051, recodified as § 181-85-106, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-12-076, § 180-85-106, filed 6/1/90, effective 7/2/90.]

WAC 181-85-107 Documentation requirement. Each certificate holder filing a report with the superintendent of public instruction shall be responsible for retaining records which document compliance with the continuing education requirements. Such documents shall include:

- (1) In-service registration forms approved by the superintendent of public instruction and furnished by an approved in-service education agency.
- (2) College and university grade sheets or transcripts which indicate completion of courses.
- (3) Any official correspondence from an approved in-service agency which verifies completion of three or more clock hours.

[06-02-051, recodified as § 181-85-107, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-12-076, § 180-85-107, filed 6/1/90, effective 7/2/90.]

WAC 181-85-108 Documentation retention period. Documents indicating compliance with the continuing education requirement must be retained by the certificate holder for one year after the lapse date or until such documentation is audited by the superintendent of public instruction, whichever is earlier.

[06-02-051, recodified as § 181-85-108, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-12-076, § 180-85-108, filed 6/1/90, effective 7/2/90.]

WAC 181-85-109 SPI audits of documentation. Continuing education compliance forms filed with the superintendent of public instruction shall be audited by the superintendent of public instruction on a selective basis, which may include responses to complaints or other evidence of possible noncompliance, with the number of actual audits per year left to the discretion of the superintendent of public instruction. Such audit may consist of requesting the affected certificate holder to supply the superintendent of public instruction copies of the documents which indicate compliance and/or may consist of any other audit procedure deemed necessary by the superintendent of public instruction in order to check compliance.

[06-02-051, recodified as § 181-85-109, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 98-01-034, § 180-85-109, filed 12/8/97, effective 1/8/98. Statutory Authority: RCW 28A.70.005. 90-12-076, § 180-85-109, filed 6/1/90, effective 7/2/90.]

WAC 181-85-130 Reinstatement of lapsed certificate. A holder of a lapsed certificate may reinstate such lapsed certificate by presenting evidence to the superintendent of public instruction of completing the continuing education credit hour requirement within the previous five years from the date of reinstatement application. The next lapse dates on a reinstated professional certificate shall be recalculated and shall be the same as if a new certificate under the provisions of WAC 180-85-100 [181-85-100].

[06-02-051, recodified as § 181-85-130, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 86-13-018 (Order 8-86), § 180-85-130, filed 6/10/86.]

WAC 181-85-200 In-service education approval standards. In-service education programs provided by approved in-service education agencies shall meet the following program standards:

- (1) The objectives of the in-service program—i.e., intended outcomes—shall be written for each in-service education program.
- (2) The content of the in-service education program shall be set forth in a program agenda which shall specify the topics to be covered, the days and times of each presentation, and the names and short description of qualifications of each instructor—e.g., degrees and current professional position.
- (3) All in-service education instructors shall have academic and/or professional experience which specifically qualifies them to conduct the in-service education program—e.g., a person with expertise in a particular subject, field, or occupation.
- (4) Program materials, including the program agenda, prepared, designed, or selected for the in-service education program shall be available to all attendees.
- (5) The in-service education program shall be evaluated by the participants to determine the success of the program, including the following:
 - (a) The extent to which the written objectives—i.e., subsection (1) of this section—have been met;
 - (b) The quality of the physical facilities in which the program was offered;
 - (c) The quality of the oral presentation by each instructor;

(d) The quality of the written program materials provided by each instructor; and

(e) Suggestions for improving the in-service education program if repeated.

(6) The in-service education agency shall compile the evaluations required in subsection (5) of this section in summary form.

(7) The designated administrator of each in-service education program shall assess the value and success of such program and periodically report his or her findings to the governing or advisory board which authorized the in-service program.

(8) The standards for recordkeeping as provided in WAC 180-85-205 [181-85-205] shall apply.

(9) The in-service education agency must permit a designated representative of the superintendent of public instruction to attend the in-service education program at no charge and permit such representative to receive a copy of the program materials required by subsection (4) of this section also at no charge.

(10) The in-service education agency must provide each registrant with appropriate forms for claiming continuing education credit hours.

(11) Note: The provisions of this section do not apply to credit hours awarded by a college or university or course work continuing education hours awarded by a vocational-technical college.

[06-02-051, recodified as § 181-85-200, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-086, § 180-85-200, filed 2/5/97, effective 3/8/97. Statutory Authority: RCW 28A.70.005. 89-01-043 (Order 28-88), § 180-85-200, filed 12/14/88; 88-01-086 (Order 16-87), § 180-85-200, filed 12/21/87; 86-13-018 (Order 8-86), § 180-85-200, filed 6/10/86.]

WAC 181-85-205 Required recordkeeping by approved in-service education agencies. Each approved in-service education agency shall provide the following record service:

(1) Documentation that the in-service education program, including the program agenda, received approval by the board or committee provided in WAC 180-85-045(2) [181-85-045(2)] prior to offering the in-service program.

(2) A copy of the summary of evaluations required by WAC 180-85-200(5) [181-85-200(5)]; and

(3) A copy of the minutes of the board or advisory committee which demonstrates that such board or advisory committee reviewed the assessment required by WAC 180-85-200(6) [181-85-200(6)].

(4) A list, for each in-service education program, of all participants who have requested continuing education credit hours by signing a registration form made available at the in-service education program. Such registration form shall provide space for the registrant to indicate he or she is requesting fewer hours than the amount calculated for the entire in-service education program due to partial attendance.

(5) The registrant shall be provided a form to be completed at the in-service education program which includes the necessary information for recording in-service credits, and upon request if such request is made within seven calendar years of such in-service education program, including the number of continuing education credit hours recorded. In

addition, the registrant shall be given specific instructions regarding the need to preserve the record and how to correct the record if attendance or credit hours has been recorded by the approved in-service education agency inaccurately.

(6) The above records shall be available for inspection by the superintendent of public instruction for a period of seven calendar years from the date of each in-service education program. The amendments to this section reducing the amount of recordkeeping by in-service providers shall apply retroactively to August 31, 1987.

[06-02-051, recodified as § 181-85-205, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-12-076, § 180-85-205, filed 6/1/90, effective 7/2/90; 88-01-086 (Order 16-87), § 180-85-205, filed 12/21/87; 86-13-018 (Order 8-86), § 180-85-205, filed 6/10/86.]

WAC 181-85-210 Assurances of compliance with program and recordkeeping standards. Annual assurances shall be completed as follows:

(1) School districts shall be requested, when submitting the annual basic education compliance report, to provide an assurance that any in-service education program to be provided by such district and for which continuing education credit hours will be granted shall comply with the applicable program and recordkeeping standards within this chapter.

(2) Approved private schools shall be requested, when applying for annual approval, to provide an assurance that any in-service education program to be provided by such private school and for which continuing education credit hours will be granted shall comply with the applicable program and recordkeeping standards within this chapter.

(3) Approved in-service agencies and other in-service education agencies seeking approval status shall provide on forms provided by the superintendent of public instruction, an annual assurance that any in-service education program to be provided by such agency and for which continuing education credit hours will be granted shall comply with the applicable program standards and recordkeeping within this chapter. Such forms shall contain such other information related to the continuing education program provided by the approved in-service agency as requested by the superintendent of public instruction.

[06-02-051, recodified as § 181-85-210, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-086, § 180-85-210, filed 2/5/97, effective 3/8/97. Statutory Authority: RCW 28A.70.005. 86-13-018 (Order 8-86), § 180-85-210, filed 6/10/86.]

WAC 181-85-211 Annual approval procedures. On an annual basis a list shall be submitted to the state board of education which shall include new applicants for approval as an approved in-service agency and agencies which were previously approved by the state board of education which no longer wish to serve as an approved in-service education agency.

[06-02-051, recodified as § 181-85-211, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-086, § 180-85-211, filed 2/5/97, effective 3/8/97.]

WAC 181-85-215 Selective audit of records of in-service education agencies. All approved in-service education agencies shall be audited by the superintendent of public instruction on a selective basis, which may include responses

to complaints or other evidence of possible noncompliance, with the number of actual audits per year left to the discretion of the superintendent of public instruction.

[06-02-051, recodified as § 181-85-215, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 97-04-086, § 180-85-215, filed 2/5/97, effective 3/8/97. Statutory Authority: RCW 28A.70.005, 86-13-018 (Order 8-86), § 180-85-215, filed 6/10/86.]

WAC 181-85-220 Noncompliance—Substantial compliance rule. If an audit by the superintendent of public instruction finds that an approved in-service education agency is not in substantial compliance with the provisions of this chapter, the superintendent of public instruction shall document violations of the regulations—i.e., written findings of fact and conclusions of law—and notify such provider of corrective action necessary to achieve substantial compliance. If such agency fails to provide an assurance within twenty calendar days that such corrective action will be implemented, the superintendent of public instruction shall notify the agency that it is no longer eligible to provide continuing education credit hours in its in-service education program until the agency provides an assurance to the superintendent of public instruction that corrective action will be implemented which will satisfy the substantial compliance standard: Provided, That if the approved in-service agency has more than one department or section operating in-service programs, then only the department or section within such agency that fails to comply with the provisions of this chapter shall no longer be eligible to provide continuing education credit hours.

[06-02-051, recodified as § 181-85-220, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005, 87-09-013 (Order 5-87), § 180-85-220, filed 4/3/87; 86-13-018 (Order 8-86), § 180-85-220, filed 6/10/86.]

WAC 181-85-225 Appeal to state board of education. Any finding of noncompliance by the superintendent of public instruction pursuant to WAC 180-85-220 [181-85-220] may be appealed to the state board of education for review. The filing of a notice of appeal shall cause a stay of any order by the superintendent of public instruction until the state board of education makes an independent determination on the issue of substantial compliance. If the state board of education concurs that the approved in-service education agency has failed to substantially comply with the applicable provisions of this chapter, the state board of education shall prescribe the corrective action necessary to achieve substantial compliance. Such agency or department or section within such agency, whichever is applicable, upon receipt of notice of action by the state board of education, shall be denied the authority to grant any continuing education credit hours for any subsequent in-service education program until the agency provides an assurance to the superintendent of public instruction that corrective action prescribed by the state board of education will be implemented.

[06-02-051, recodified as § 181-85-225, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005, 89-01-043 (Order 28-88), § 180-85-225, filed 12/14/88; 87-09-013 (Order 5-87), § 180-85-225, filed 4/3/87; 86-13-018 (Order 8-86), § 180-85-225, filed 6/10/86.]

Chapter 181-86 WAC

PROFESSIONAL CERTIFICATION—POLICIES AND PROCEDURES FOR ADMINISTRATION OF CERTIFICATION PROCEEDINGS

WAC

181-86-003	Authority.
181-86-005	Purpose.
181-86-010	Public policy—Certification proceeding separate from other proceedings.
181-86-011	Valid certificate required.
181-86-013	Good moral character and personal fitness—Definition.
181-86-014	Good moral character and personal fitness—Continuing requirement.
181-86-015	Denial of application for certification or endorsement order—Definition.
181-86-030	Reprimand order—Definition.
181-86-035	Suspension order—Definition.
181-86-040	Revocation order—Definition.
181-86-050	Grounds for issuance of denial of application for certification or endorsement order.
181-86-065	Grounds for issuance of a reprimand order.
181-86-070	Grounds for issuance of suspension order.
181-86-075	Grounds for issuance of a revocation order.
181-86-080	Factors to be considered prior to issuing orders.
181-86-085	Admissions and professional conduct advisory committee—Creation and composition.
181-86-090	Admissions and professional conduct advisory committee—Operational procedures.
181-86-095	Admissions and professional conduct advisory committee—Duties.
181-86-100	Reprimand or certificate suspension or revocation—Initiation of proceedings.
181-86-105	Duty of educational service district superintendent to investigate complaints.
181-86-110	Duty of ESD superintendent, district superintendent and private school administrator to file complaints.
181-86-116	Investigative priorities—Levels of acts or omissions of misconduct.
181-86-120	Issuance of denial order by superintendent of public instruction.
181-86-130	Issuance of order for reprimand, suspension, or revocation by superintendent of public instruction.
181-86-135	Issuance of final order for lapsing, reprimand, suspension, or revocation by superintendent of public instruction.
181-86-140	Appeal—General.
181-86-145	Appeal procedure—Informal SPI review.
181-86-150	Appeal procedure—Formal SPI review process.
181-86-155	Appeal procedure to SBE.
181-86-160	Agreement not to continue or accept educational employment.
181-86-165	Waiver of requirement for timely appeal.
181-86-170	Burden and standard of proof.
181-86-175	Emergency suspension of certificate.
181-86-180	Voluntary surrender of certificates.
181-86-185	Notification of denial, surrender, suspension, or revocation of certificates.
181-86-200	Annual report.

WAC 181-86-003 Authority. The authority for this chapter is RCW 28A.70.005 which authorizes the state board of education to establish, publish, and enforce rules and regulations determining eligibility for certification of personnel employed in the common schools of this state. (Note: RCW 28A.02.201 (3)(a) requires most private school classroom teachers to hold appropriate Washington state certification with few exceptions.)

[06-02-051, recodified as § 181-86-003, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005, 90-02-076, § 180-86-003, filed 1/2/90, effective 2/2/90.]

WAC 181-86-005 Purpose. The purpose of this chapter is to set forth policies and procedures for the administration of standards related to certification proceedings.

[06-02-051, recodified as § 181-86-005, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-005, filed 1/2/90, effective 2/2/90.]

WAC 181-86-010 Public policy—Certification proceeding separate from other proceedings. The public policy purpose of certification proceedings is to protect the health, safety, and general welfare of the citizens of the state of Washington. These proceedings are separate from civil and criminal proceedings, nonrenewal and discharge proceedings, or proceedings of any other administrative agency.

[06-02-051, recodified as § 181-86-010, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-010, filed 1/2/90, effective 2/2/90.]

WAC 181-86-011 Valid certificate required. Persons serving as teachers in the public or private schools or as principals or educational staff associates in public schools and in vocational positions as established by chapter 180-77 [181-77] WAC shall hold certificates authorized by the state board of education for service in the respective roles as required by statute or rules of the state board of education.

Any certificate issued pursuant to chapter 180-77 [181-77] or 180-79A [181-79A] WAC or previous standards of the state board of education shall entitle the holder thereof to be employed by a public or nonpublic school for the performance of duties encompassed by the type of certificate as specified in WAC 180-79A-140 [181-79A-140] if such certification is required by statute or rules of the state board of education, unless such certificate is under suspension or until such certificate expires, lapses, or is revoked or surrendered.

[06-02-051, recodified as § 181-86-011, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1). 02-19-050, § 180-86-011, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.410.010. 97-04-082, § 180-86-011, filed 2/5/97, effective 3/8/97.]

WAC 181-86-013 Good moral character and personal fitness—Definition. As used in this chapter, the terms "good moral character and personal fitness" means character and personal fitness necessary to serve as a certificated employee in schools in the state of Washington, including character and personal fitness to have contact with, to teach, and to perform supervision of children. Good moral character and personal fitness includes, but is not limited to, the following:

- (1) No conviction of any felony crime involving:
 - (a) The physical neglect of a child under chapter 9A.42 RCW;
 - (b) The physical injury or death of a child under chapter 9A.32 or 9A.36 RCW, excepting motor vehicle violations under chapter 46.61 RCW;
 - (c) The sexual exploitation of a child under chapter 9.68A RCW;
 - (d) Sexual offenses where a child is the victim under chapter 9A.44 RCW;
 - (e) The promotion of prostitution of a child under chapter 9A.88 RCW;
 - (f) The sale or purchase of a child under RCW 9A.64.030;
 - (g) Provided, That the general classes of felony crimes referenced within this subsection shall include equivalent federal and crimes in other states committed against a child;

(h) Provided further, That for the purpose of this subsection "child" means a minor as defined by the applicable state or federal law;

(i) Provided further, That for the purpose of this subsection "conviction" shall include a guilty plea.

(2) No conviction of any crime within the last ten years, including motor vehicle violations, which would materially and substantially impair the individual's worthiness and ability to serve as a professional within the public and private schools of the state. In determining whether a particular conviction would materially and substantially impair the individual's worthiness and ability to practice, the following and any other relevant considerations shall be weighed:

(a) Age and maturity at the time the criminal act was committed;

(b) The degree of culpability required for conviction of the crime and any mitigating factors, including motive for commission of the crime;

(c) The classification of the criminal act and the seriousness of the actual and potential harm to persons or property;

(d) Criminal history and the likelihood that criminal conduct will be repeated;

(e) The permissibility of service as a professional educator within the terms of any parole or probation;

(f) Proximity or remoteness in time of the criminal conviction;

(g) Any evidence offered which would support good moral character and personal fitness;

(h) If this subsection is applied to a person certified under the laws of the state of Washington in a suspension or revocation action, the effect on the education profession, including any chilling effect, shall be weighed; and

(i) In order to establish good moral character and personal fitness despite the criminal conviction, the applicant or certificate holder has the duty to provide available evidence relative to the above considerations. The superintendent of public instruction has the right to gather and present additional evidence which may corroborate or negate that provided by the applicant or certificate holder.

(3) No behavioral problem which endangers the educational welfare or personal safety of students, teachers, or other colleagues within the educational setting.

(4) No practice within the state of Washington within the previous five school years with an expired, lapsed, suspended, surrendered, or revoked certificate in a professional position for which certification is required under the rules of the state board of education.

[06-02-051, recodified as § 181-86-013, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1). 02-19-050, § 180-86-013, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.410.010. 97-04-082, recodified as § 180-86-013, filed 2/5/97, effective 3/8/97. Statutory Authority: RCW 18A.410.010 [28A.410.010] and 28A.70.005. 92-01-127, § 180-75-081, filed 12/19/91, effective 1/19/92. Statutory Authority: RCW 28A.70.005. 90-02-073, § 180-75-081, filed 1/2/90, effective 2/2/90. Statutory Authority: RCW 34.05.220(A) [34.05.220 (1)(a)] and 34.05.250. 89-22-010, § 180-75-081, filed 10/20/89, effective 11/20/89. Statutory Authority: RCW 28A.70.005. 87-09-010 (Order 2-87), § 180-75-081, filed 4/3/87.]

WAC 181-86-014 Good moral character and personal fitness—Continuing requirement. The good moral character and personal fitness requirement of applicants for certification under the laws of the state of Washington is a

continuing requirement for holding a professional educational certificate under regulations of the state board of education.

[06-02-051, recodified as § 181-86-014, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-04-082, recodified as § 180-86-014, filed 2/5/97, effective 3/8/97. Statutory Authority: RCW 34.05.220(A) [34.05.220 (1)(a)] and 34.05.250. 89-22-010, § 180-75-083, filed 10/20/89, effective 11/20/89. Statutory Authority: RCW 28A.70.005. 87-09-010 (Order 2-87), § 180-75-083, filed 4/3/87.]

WAC 181-86-015 Denial of application for certification or endorsement order—Definition. As used in this chapter the term "denial of application for certification order" means an official document issued by the superintendent of public instruction which contains:

- (1) Findings of fact.
- (2) A conclusion of law that the applicant does not qualify for the certificate, including renewal and reinstatement, or endorsement request.

[06-02-051, recodified as § 181-86-015, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-015, filed 1/2/90, effective 2/2/90.]

WAC 181-86-030 Reprimand order—Definition. As used in this chapter, the term "reprimand order" means an official document issued by the superintendent of public instruction which contains:

- (1) Findings of fact.
- (2) One or more conclusions of law stating the commission of an act of unprofessional conduct.
- (3) An order to not continue or repeat the conduct or lack of good moral character or personal fitness.

[06-02-051, recodified as § 181-86-030, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1). 02-19-050, § 180-86-030, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-030, filed 1/2/90, effective 2/2/90.]

WAC 181-86-035 Suspension order—Definition. As used in this chapter, the term "suspension order" means an official document issued by the superintendent of public instruction which contains:

- (1) Findings of fact.
- (2) One or more conclusions of law stating one or more of the following:
 - (a) The commission of an act of unprofessional conduct.
 - (b) The lack of good moral character.
 - (c) The lack of personal fitness.
- (3) An order suspending the education practitioner from practicing for a stated period of time.
- (4) Such order may contain a requirement that the certificate holder fulfill certain conditions precedent to resuming professional practice and certain conditions subsequent to resuming professional practice.

[06-02-051, recodified as § 181-86-035, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-035, filed 1/2/90, effective 2/2/90.]

WAC 181-86-040 Revocation order—Definition. As used in this chapter, the term "revocation order" means an official document issued by the superintendent of public instruction which contains:

- (1) Findings of fact.

(2) One or more conclusions of law stating one or more of the following:

- (a) The commission of an act of unprofessional conduct.
- (b) The lack of good moral character.
- (c) The lack of personal fitness.
- (3) An order revoking the certificate(s) of the education practitioner.

[06-02-051, recodified as § 181-86-040, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-040, filed 1/2/90, effective 2/2/90.]

WAC 181-86-050 Grounds for issuance of denial of application for certification or endorsement order. The superintendent of public instruction shall issue a denial of application for certification or endorsement order if the applicant is not eligible for one or more of the following:

- (1) Certification.
- (2) Reissuance of a certificate.
- (3) Reinstatement of a certificate.
- (4) An endorsement.

[06-02-051, recodified as § 181-86-050, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-050, filed 1/2/90, effective 2/2/90.]

WAC 181-86-065 Grounds for issuance of a reprimand order. The superintendent of public instruction may issue a reprimand order whenever the superintendent of public instruction determines one or more of the following:

- (1) That the certificate holder has admitted the commission of an act of unprofessional conduct or lack of good moral character or personal fitness and has presented to the superintendent of public instruction an agreed order to not continue or repeat the conduct described in the findings of fact.
- (2) That the certificate holder has committed an act of unprofessional conduct but the evidence is probably insufficient to meet the clear and convincing proof standard for suspension or revocation.
- (3) That the certificate holder has committed an act of unprofessional conduct but the violation and the consequence were not serious and the interest of the state in protecting the health, safety, and general welfare of students, colleagues, and other affected persons is adequately served by a reprimand.

(4) Provided, That the superintendent of public instruction, in the administration of this chapter, shall place a high priority on processing complaints that allege circumstances which appear to warrant a suspension or revocation and, in order to do so, may elect not to pursue, when necessary, any and all complaints which appear to only warrant a reprimand.

[06-02-051, recodified as § 181-86-065, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1). 02-19-050, § 180-86-065, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-065, filed 1/2/90, effective 2/2/90.]

WAC 181-86-070 Grounds for issuance of suspension order. The superintendent of public instruction may issue a suspension order under one of the following conditions:

- (1) The certificate holder has admitted the commission of an act of unprofessional conduct or lack of good moral

character or personal fitness and has presented to the superintendent of public instruction an agreed order to not serve as an education practitioner for a stated period of time and the superintendent of public instruction has agreed that the interest of the state in protecting the health, safety, and general welfare of students, colleagues, and other affected persons is adequately served by a suspension. Such order may contain a requirement that the certificate holder fulfill certain conditions precedent to resuming professional practice and certain conditions subsequent to resuming practice.

(2) The certificate holder has committed an act of unprofessional conduct or lacks good moral character but the superintendent of public instruction has determined that a suspension as applied to the particular certificate holder will probably deter subsequent unprofessional or other conduct which evidences lack of good moral character or personal fitness by such certificate holder, and believes the interest of the state in protecting the health, safety, and general welfare of students, colleagues, and other affected persons is adequately served by a suspension. Such order may contain a requirement that the certificate holder fulfill certain conditions precedent to resuming professional practice and certain conditions subsequent to resuming practice.

(3) The certificate holder lacks personal fitness but the superintendent of public instruction has determined the deficiency is correctable through remedial action and believes the interest of the state in protecting the health, safety, and general welfare of students, colleagues, and other affected persons is adequately served by a suspension which states condition precedent to resuming professional practice and which also may state certain conditions subsequent to resuming practice.

(4) Provided, That suspension shall never be appropriate if the certificate holder has committed a felony crime under WAC 180-86-013(1) [181-86-013(1)].

[06-02-051, recodified as § 181-86-070, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1), 02-19-050, § 180-86-070, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005, 90-02-076, § 180-86-070, filed 1/2/90, effective 2/2/90.]

WAC 181-86-075 Grounds for issuance of a revocation order. The superintendent of public instruction may issue a revocation order under one of the following conditions:

(1) The superintendent of public instruction has determined that the certificate holder has committed a felony crime under WAC 180-86-013(1) [181-86-013(1)], which bars the certificate holder from any future practice as an education practitioner.

(2) The certificate holder has not committed a felony crime under WAC 180-86-013(1) [181-86-013(1)] but the superintendent of public instruction has determined the certificate holder has committed an act of unprofessional conduct or lacks good moral character or personal fitness and revocation is appropriate.

[06-02-051, recodified as § 181-86-075, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1), 02-19-050, § 180-86-075, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005, 90-02-076, § 180-86-075, filed 1/2/90, effective 2/2/90.]

WAC 181-86-080 Factors to be considered prior to issuing orders. Prior to issuing any disciplinary order under this chapter the superintendent of public instruction or designee shall consider, at a minimum, the following factors to determine the appropriate level and range of discipline:

- (1) The seriousness of the act(s) and the actual or potential harm to persons or property;
- (2) The person's criminal history including the seriousness and amount of activity;
- (3) The age and maturity level of participant(s) at the time of the activity;
- (4) The proximity or remoteness of time in which the acts occurred;
- (5) Any activity that demonstrates a disregard for health, safety or welfare;
- (6) Any activity that demonstrates a behavioral problem;
- (7) Any activity that demonstrates a lack of fitness;
- (8) Any information submitted regarding discipline imposed by any governmental or private entity as a result of acts or omissions;
- (9) Any information submitted that demonstrates aggravating or mitigating circumstances;
- (10) Any information submitted to support character and fitness; and
- (11) Any other relevant information submitted.

[06-02-051, recodified as § 181-86-080, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 97-05-008, § 180-86-080, filed 2/7/97, effective 3/10/97.]

WAC 181-86-085 Admissions and professional conduct advisory committee—Creation and composition. The superintendent of public instruction shall appoint a nine-member admissions and professional conduct advisory committee. Prior to making appointments to such committee, the superintendent of public instruction shall consult with one or more officers within recognized professional associations regarding possible appointments. The advisory committee shall consist of three teachers, one of whom shall be a private school teacher, three educational staff associates, and three administrators. Advisory committee members must be practicing in such designated roles while serving on the advisory committee.

[06-02-051, recodified as § 181-86-085, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005, 90-02-076, § 180-86-085, filed 1/2/90, effective 2/2/90.]

WAC 181-86-090 Admissions and professional conduct advisory committee—Operational procedures. The following shall govern the operational procedures of the admissions and professional conduct advisory committee:

(1) Meetings of the advisory committee shall be open to the public except when it is considering the admission or professional conduct of a particular certificate holder unless such affected certificate holder requests the meeting to be open to the public.

(2) Each member of the advisory committee shall have one vote.

[06-02-051, recodified as § 181-86-090, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005, 90-02-076, § 180-86-090, filed 1/2/90, effective 2/2/90.]

WAC 181-86-095 Admissions and professional conduct advisory committee—Duties. The duties of the admissions and professional conduct advisory committee are as follows:

(1) To advise the superintendent of public instruction and the state board of education on matters related to good moral character, personal fitness, and unprofessional conduct regarding education practitioners.

(2) To review informal appeals conducted pursuant to WAC 180-86-140 [181-86-140] and provide recommendations to the review officer on the content of the written decision.

[06-02-051, recodified as § 181-86-095, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-095, filed 1/2/90, effective 2/2/90.]

WAC 181-86-100 Reprimand or certificate suspension or revocation—Initiation of proceedings. The initiation of reprimand, suspension, or revocation proceedings by the superintendent of public instruction shall commence as a result of the following:

(1) Whenever the superintendent of public instruction or the designated administrative officer of the superintendent of public instruction having responsibility for certification becomes aware from whatever source that a certificate holder has had a professional license revoked or suspended by a licensing agency, has voluntarily surrendered a license or has been arrested, charged, or convicted for any felony offense included within WAC 180-86-013(1) [181-86-013(1)], the superintendent of public instruction or the designated administrative officer shall cause an investigation.

(2) In all other cases, the initiation of investigative proceedings shall commence only upon receipt of a written complaint from a school district or educational service district superintendent or the chief administrative officer of an approved private school. Such written complaint shall state the grounds and summarize the factual basis upon which a determination has been made that an investigation by the superintendent of public instruction is warranted. The superintendent of public instruction shall provide the affected certificate holder with a copy of such written complaint and a copy of WAC 180-86-180 [181-86-180].

[06-02-051, recodified as § 181-86-100, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1). 02-19-050, § 180-86-100, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.410.010. 91-08-056, § 180-86-100, filed 4/2/91, effective 5/3/91. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-100, filed 1/2/90, effective 2/2/90.]

WAC 181-86-105 Duty of educational service district superintendent to investigate complaints. Each educational service district superintendent shall cause to be investigated all written and signed complaints, from whatever source, that allege that a certificated education professional within his or her educational service district is not of good moral character or personal fitness or has committed an act of unprofessional conduct. If the educational service district superintendent investigates and determines the facts are reliable and further investigation by the superintendent of public instruction is warranted, the educational service district superintendent shall forward the written complaint and the results of his or her investigation to the superintendent of public instruction: Provided, That if the educational service

district superintendent, after consultation with the assistant attorney general assigned to his or her educational service district, determines that the substance of the complaint would not constitute grounds for reprimand, suspension, or revocation if true, then such educational service district superintendent need not investigate the complaint: Provided further, That if the educational service district superintendent receives a written assurance from the superintendent of public instruction, a district superintendent, or a chief administrative officer of an approved private school that such official is investigating or will investigate the same or a substantially similar complaint, the educational service district superintendent shall be deemed to have caused an investigation in compliance with this section.

[06-02-051, recodified as § 181-86-105, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-105, filed 1/2/90, effective 2/2/90.]

WAC 181-86-110 Duty of ESD superintendent, district superintendent and private school administrator to file complaints. When an educational service district superintendent, a district superintendent, or the chief administrative officer of an approved private school possesses sufficient reliable information to believe that a certificated employee within such district or approved private school is not of good moral character or personally fit or has committed an act of unprofessional conduct, such superintendent or chief administrative officer, within a reasonable period of time of making such determination, shall file a written complaint with the superintendent of public instruction: Provided, That if an educational service district or school district is considering action to discharge an employee of such district, the educational service district or school district superintendent need not file such complaint until ten calendar days after making the final decision to serve or not serve formal notice of discharge.

[06-02-051, recodified as § 181-86-110, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-110, filed 1/2/90, effective 2/2/90.]

WAC 181-86-116 Investigative priorities—Levels of acts or omissions of misconduct. (1) The superintendent of public instruction or designee shall prioritize the investigation of alleged certificated individual misconduct, lack of fitness or unprofessional conduct in the following descending order:

(a) Level I. Level I actions shall have the highest investigative priority and are those allegations, if proven true, for which permanent mandatory revocation shall be the appropriate disciplinary action. They include the following convictions for which permanent revocation of a certificate is mandatory under RCW 28A.410.090:

- (i) Physical neglect of a child under chapter 9A.42 RCW;
- (ii) The physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (excepting motor vehicle violations under chapter 46.61 RCW);
- (iii) Sexual exploitation of a child under chapter 9.68A RCW;
- (iv) Sexual offenses under chapter 9A.44 RCW where a minor is the victim;

(v) Promoting prostitution of a minor under chapter 9A.88 RCW;

(vi) The sale or purchase of a minor child under RCW 9A.64.030; or

(vii) Violation of similar laws of another jurisdiction.

(b) Level II. Level II actions shall have the next investigative priority and are those allegations, if proven true, for which revocation may be the appropriate disciplinary action. They include, but are not limited to the following:

(i) Sexual activity with children and/or students;

(ii) Engaging in acts of violence leading to bodily injury;

(iii) Selling and/or manufacturing illegal drugs; or

(iv) Other activity that if convicted would result in a felony conviction.

(c) Level III. Level III actions shall have the next investigative priority and are those allegations, if proven true, for which suspension may be the appropriate disciplinary action. They include, but are not limited to the following:

(i) Illegal drug possession and/or use;

(ii) Threats related to persons or property;

(iii) Alcohol abuse;

(iv) Reckless conduct where no bodily injury results;

(v) Engaging in unauthorized corporal punishment;

(vi) Verbal or physical sexual harassment of students;

(vii) Engaging in activity that demonstrates poor professional judgment; or

(viii) Other activity that if convicted would result in a misdemeanor conviction.

(d) Level IV. Level IV actions shall have the next investigative priority and are those allegations, if proven true, for which a reprimand may be the appropriate disciplinary action. They include, but are not limited to the following:

(i) Practicing with a lapsed or expired certificate, or a certificate not valid for the position;

(ii) Isolated failure to timely evaluate certificated personnel; or

(iii) Intentionally hiring a person for a certificated role who does not possess a valid certificate.

(2) All cases shall be monitored periodically to determine if their priority level should change as a result of information uncovered during the investigation.

(3) Notwithstanding any provision of this section to the contrary, the office of professional practices reserves the right to reprioritize the investigation of complaints based upon the efficient use of available resources and/or the relative urgency or lack of urgency in resolving various complaints in the public interest, and the right to recommend forms of discipline appropriate to the offenses committed.

[06-02-051, recodified as § 181-86-116, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1), 02-19-050, § 180-86-116, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.410.010, 97-05-008, § 180-86-116, filed 2/7/97, effective 3/10/97.]

WAC 181-86-120 Issuance of denial order by superintendent of public instruction. Whenever the superintendent of public instruction takes action to deny an application, the superintendent of public instruction, in accordance with the provisions of this chapter, shall issue an order of denial of application for certification or endorsement to the applicant or affected certificate holder and shall provide such person a

copy of applicable administrative appeal procedures provided in this chapter.

[06-02-051, recodified as § 181-86-120, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005, 90-02-076, § 180-86-120, filed 1/2/90, effective 2/2/90.]

WAC 181-86-130 Issuance of order for reprimand, suspension, or revocation by superintendent of public instruction. Whenever the superintendent of public instruction takes action to suspend or revoke a certificate or reprimand a certificate holder, the superintendent of public instruction, in accordance with the provisions of this chapter, shall issue an order of reprimand, suspension, or revocation to the affected certificate holder and shall provide such person a copy of applicable administrative appeal procedures provided in this chapter. If the order is to suspend or revoke a certificate and the superintendent of public instruction has knowledge that such certificate holder is employed within the common school system or by an approved private school, the superintendent of public instruction shall advise such employer that an order has been sent to the employee but shall not provide such employer with a copy of the order.

[06-02-051, recodified as § 181-86-130, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1), 02-19-050, § 180-86-130, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005, 90-02-076, § 180-86-130, filed 1/2/90, effective 2/2/90.]

WAC 181-86-135 Issuance of final order for lapsing, reprimand, suspension, or revocation by superintendent of public instruction. Final orders for lapsing, reprimand, suspension, and revocation shall be issued by the superintendent of public instruction as follows:

(1) If the certificate holder fails to appeal a proposed order pursuant to this chapter within thirty calendar days following the date of mailing the proposed order, the superintendent of public instruction shall issue a final order of lapsing, reprimand, suspension, or revocation.

(2) If the certificate holder appeals a proposed order pursuant to this chapter, the superintendent of public instruction shall not issue a final order until completion of the informal review process by the superintendent of public instruction.

[06-02-051, recodified as § 181-86-135, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005, 90-02-076, § 180-86-135, filed 1/2/90, effective 2/2/90.]

WAC 181-86-140 Appeal—General. Any person who applies directly to the superintendent of public instruction for a certificate, particular endorsement, certificate renewal, or certificate reinstatement whose application is denied or any person who is notified that his or her certificate is suspended or revoked or that a reprimand order has been issued shall be advised that he or she is entitled to appeal that decision to the superintendent of public instruction if he or she follows the procedures established in this chapter: Provided, That the appeal procedure may not be used to seek reinstatement of a certificate if that certificate has been revoked in the preceding twelve months by the superintendent of public instruction.

The appeal procedure to the superintendent of public instruction consists of two levels, one informal and one formal. The use of the informal level is a condition precedent to use of the formal level. In addition, the provisions of WAC

180-86-155 [181-86-155] provide an additional appeal to the state board of education and RCW 34.05.570 provides for judicial review of such decisions.

[06-02-051, recodified as § 181-86-140, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1). 02-19-050, § 180-86-140, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-140, filed 1/2/90, effective 2/2/90.]

WAC 181-86-145 Appeal procedure—Informal SPI review. Any person who appeals the decision or order to deny his or her application, the issuance of a reprimand, or the order to suspend or revoke his or her certificate must file a written notice with the superintendent of public instruction within thirty calendar days following the date of receipt from the section of the superintendent of public instruction's office responsible for certification of the decision or order.

The written notice must set forth the reasons why the appellant believes his or her application should have been granted or why his or her certificate should not be suspended or revoked, or why the reprimand should not be issued whichever is applicable.

Following timely notice of appeal, the superintendent of public instruction shall appoint a review officer who shall proceed as follows:

(1) If the appeal does not involve good moral character, personal fitness, or unprofessional conduct, the review officer shall review the application and appeal notice and may request further written information including, but not limited to, an explanation from the person or persons who initially reviewed the application of the reason(s) why the application was denied. If the review officer deems it advisable, he or she shall schedule an informal meeting with the appellant, the person or persons who denied the application, and any other interested party designated by the review officer to receive oral information concerning the application. Any such meeting must be held within thirty calendar days of the date of receipt by the superintendent of public instruction of the timely-filed appeal notice.

(2) If the appeal involves good moral character, personal fitness, or acts of unprofessional conduct, the review officer shall schedule an informal meeting of the applicant or certificate holder and/or counsel for the applicant or certificate holder with the admissions and professional conduct advisory committee. Such meeting shall be scheduled in accordance with the calendar of meetings of the advisory committee: Provided, That notice of appeal must be received at least fifteen calendar days in advance of a scheduled meeting.

(3) Send by certified mail a written decision—i.e., findings of fact and conclusions of law—on the appeal within thirty calendar days from the date of receipt of the timely-filed appeal notice or informal meeting, whichever is later. The review officer may uphold, reverse, or modify the decision to deny the application, the order to reprimand, or the order to suspend or revoke the certificate.

(4) The timelines stated herein may be extended by the review officer for cause.

(5) Provided, That in the case of an action for suspension or revocation of a certificate, the review officer, if so requested by an appellant, shall delay any review under this section until all quasi-judicial administrative or judicial proceedings (i.e., criminal and civil actions), which the review

officer and the appellant agree are factually related to the suspension or revocation proceeding, are completed, including appeals, if the appellant signs the agreement stated in WAC 180-86-160 [181-86-160]. In requesting such delay, the appellant shall disclose fully all pending quasi-judicial administrative proceedings in which the appellant is involved.

[06-02-051, recodified as § 181-86-145, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1). 02-19-050, § 180-86-145, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-145, filed 1/2/90, effective 2/2/90.]

WAC 181-86-150 Appeal procedure—Formal SPI review process. Formal appeals to the superintendent of public instruction shall be provided as follows:

(1) Any person who has filed an appeal in accordance with WAC 180-86-140 [181-86-140] and desires to have the decision of the review officer formally reviewed by the superintendent of public instruction may do so. To instigate review under this section, a person must file a written notice with the superintendent of public instruction within thirty calendar days following the date of receipt of the review officer's written decision.

(2) For purposes of hearing an appeal under this section, the superintendent of public instruction shall conduct a formal administrative hearing in conformance with the Administrative Procedure Act, chapter 34.05 RCW. The superintendent of public instruction, in carrying out this duty, may contract with the office of administrative hearings pursuant to RCW 28A.03.500 to hear a particular appeal. Decisions in cases formally appealed pursuant to this section may be made by the administrative law judge selected by the chief administrative law judge if the superintendent of public instruction delegates this authority pursuant to RCW 28A.03.500.

(3) The decision of the superintendent of public instruction or the administrative law judge, whichever is applicable, shall be sent by certified mail to the appellant's last known address and if the decision is to reprimand, suspend, or revoke, the appellant shall be notified that such order takes effect upon signing of the final order and that no stay of reprimand, suspension, or revocation shall exist until the appellant files an appeal in a timely manner pursuant to WAC 180-86-155 [181-86-155].

[06-02-051, recodified as § 181-86-150, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 92-15-037, § 180-86-150, filed 7/9/92, effective 8/9/92. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-150, filed 1/2/90, effective 2/2/90.]

WAC 181-86-155 Appeal procedure to SBE. Any person whose certificate has been suspended or revoked by the superintendent of public instruction in accordance with the procedures of this chapter may appeal that decision to the state board of education by filing a notice of appeal with the superintendent of public instruction or the secretary of the state board of education within thirty calendar days of the date of mailing the decision of the superintendent of public instruction. Review by the state board of education shall be conducted as follows:

(1) Review shall be conducted by the state board of education at its next scheduled meeting following notice of appeal unless either the appellant or the superintendent of

public instruction requests an extension of the review to the following next scheduled meeting.

(2) Review conducted by the state board of education shall be confined to the record, except that in cases of alleged irregularities in procedures before the superintendent of public instruction, not shown in the record, testimony thereon shall be taken before the state board of education.

(3) The record shall include written briefs submitted.

(4) Oral argument will be permitted if fifteen days advance notice is given to the secretary of the state board of education.

(5) The state board of education will be assisted in its deliberations and its final order by an assistant attorney general who has not been involved in any prior proceeding related to the previous administrative order by the superintendent of public instruction.

(6) The state board of education may affirm the decision of the superintendent of public instruction, remand the matter for further proceedings, modify the decision, or reverse the decision.

(7) If the decision of the state board of education is to modify or reverse the decision of the superintendent of public instruction or to remand the matter for further proceedings, the state board of education shall state its reasons in a written order.

(8) The final order of the state board of education shall be by written order, attested by the secretary of the state board of education, and sent to the appellant by certified mail within ten calendar days of the final decision by the state board of education. In addition, persons aggrieved by a final order shall be advised of their right to judicial review pursuant to RCW 34.05.570.

[06-02-051, recodified as § 181-86-155, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.410.100. 92-24-069, § 180-86-155, filed 12/1/92, effective 1/1/93. Statutory Authority: RCW 28A.410.010. 92-15-037, § 180-86-155, filed 7/9/92, effective 8/9/92. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-155, filed 1/2/90, effective 2/2/90.]

WAC 181-86-160 Agreement not to continue or accept educational employment. The agreement required for deferring suspension or revocation proceedings shall read as follows:

"I,, have received notice in the form of an order to suspend or revoke that the superintendent of public instruction believes sufficient cause exists for the suspension or revocation of the following certificate(s):

(1) Cert. No.

(2) Cert. No.

As a condition to a delay in the hearing date, I agree not to commence or continue employment in any Washington public or private school or agency in a position requiring such certificate until the superintendent of public instruction dismisses the case without a hearing or until a hearing has been held and the final decision is rendered by the superintendent of public instruction. I further agree to advise the review officer assigned to my suspension or revocation proceedings of all decisions rendered in any administrative or judicial tribunal and all appeals therefrom which the review officer and

I have agreed are factually related to the action to suspend or revoke my certificate(s). I understand my failure to abide by this agreement is an act of unprofessional conduct and, therefore, may be sufficient cause for revocation of my certificate(s)."

[06-02-051, recodified as § 181-86-160, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1). 02-19-050, § 180-86-160, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-160, filed 1/2/90, effective 2/2/90.]

WAC 181-86-165 Waiver of requirement for timely appeal. The requirements in this chapter for timely notice of appeal shall be waived if justifiable cause is established by the appellant, including failure to receive such notice without fault of the appellant or a plausible reason by the appellant for failure to understand the nature of or the timelines within the received notice.

[06-02-051, recodified as § 181-86-165, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-165, filed 1/2/90, effective 2/2/90.]

WAC 181-86-170 Burden and standard of proof. The following burden and standard of proof shall be applicable:

(1) If an application for certification or reinstatement has been denied for lack of good moral character or personal fitness, the evidence submitted by the applicant must prove by clear and convincing evidence that he or she is of good moral character and personal fitness or the application will be denied.

(2) In a suspension or revocation proceeding, the superintendent of public instruction must prove by clear and convincing evidence that the certificate holder is not of good moral character or personal fitness or has committed an act of unprofessional conduct.

(3) In all other proceedings, including reprimand, the standard of proof shall be a preponderance of evidence.

[06-02-051, recodified as § 181-86-170, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1). 02-19-050, § 180-86-170, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-170, filed 1/2/90, effective 2/2/90.]

WAC 181-86-175 Emergency suspension of certificate. Notwithstanding any other provision of this chapter, the superintendent of public instruction, pursuant to RCW 34.05.479, may emergency suspend a certificate if the superintendent of public instruction finds that the public health, safety, or welfare of students, colleagues, or the general public imperatively requires emergency action. In such cases, the holder of the certificate who is subjected to emergency suspension of his or her certificate shall have the right to commence an informal review of such action within forty-eight hours of filing a notice of appeal with the superintendent of public instruction or, if applicable, to sign an agreement pursuant to WAC 180-86-180 [181-86-180]. If such an agreement is signed or, if not, unless the superintendent of public instruction sustains the emergency action within seven calendar days of the filing of the notice of appeal, the emergency suspension shall be void. The superintendent of public instruction, in carrying out this duty, may contract with the office of administrative hearings, pursuant to RCW 28A.03.-050, to hear the appeal and sustain the emergency action.

[06-02-051, recodified as § 181-86-175, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-175, filed 1/2/90, effective 2/2/90.]

WAC 181-86-180 Voluntary surrender of certificates. A holder of a certificate who has not received a final order for revocation of his or her certificate may voluntarily surrender his or her certificate to the superintendent of public instruction if the certificate holder believes that he or she is or might be ineligible to hold a certificate for any reason which is or might constitute grounds for revocation of the certificate other than conviction of a felony crime stated within WAC 180-86-013(1) [181-86-013(1)].

A certificate holder voluntarily surrendering a certificate shall provide the superintendent of public instruction the following affidavit:

"I,, have reason to believe that I am or might be ineligible to hold a certificate(s) for reasons which do or might constitute grounds for revocation of the certificate(s). Accordingly, I hereby voluntarily surrender the following certificate(s):

(1) Cert. No.

(2) Cert. No.

I have not been to the best of my knowledge convicted of any felony crime listed within WAC 180-86-013(1) [181-86-013(1)].

I agree, if I request reinstatement of the certificate(s) I have voluntarily surrendered, to provide the superintendent of public instruction with an affidavit describing in full the reasons for my voluntary surrender of the certificate(s) listed above. I further understand that the superintendent of public instruction will notify other states and public and private school officials within the state of Washington that I have voluntarily surrendered my certificate(s)."

Upon request for reinstatement of such certificate, the applicant must comply with chapter 180-77 [181-77] or 180-79A [181-79A] WAC and, in addition, must disclose in full the reasons for the voluntary surrender of the certificate. In the event the surrendered certificate would have expired or lapsed but for the surrendering of the certificate, the applicant must meet all requirements for reinstating an expired or lapsed certificate.

[06-02-051, recodified as § 181-86-180, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1). 02-19-050, § 180-86-180, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-180, filed 1/2/90, effective 2/2/90.]

WAC 181-86-185 Notification of denial, surrender, suspension, or revocation of certificates. The superintendent of public instruction shall notify all other states whenever an applicant has been denied a certificate for failure to possess good moral character or personal fitness or whenever a certificate has been suspended, surrendered, or revoked and shall provide the full name and certificate number, if applicable, to the agency responsible for certification in each state. The superintendent of public instruction shall notify appropriate public or private school officials within the state the name and certification number of all certificate holders whose certificates have been suspended, surrendered, or

revoked: Provided, That such notification shall not be made prior to forty-five days after the final administrative order and shall not be made if a court order staying the denial, suspension, or revocation is in effect.

[06-02-051, recodified as § 181-86-185, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1). 02-19-050, § 180-86-185, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-185, filed 1/2/90, effective 2/2/90.]

WAC 181-86-200 Annual report. The superintendent of public instruction, annually, shall transmit to the state board of education a factual report describing the administration of this chapter. The report shall include:

- (1) Number of the following actions:
 - (a) Voluntary surrenders of certificates.
 - (b) Reprimands, suspensions, and revocations.
 - (c) Cases investigated.
- (2) Brief descriptions of the cases investigated but written so as to protect the privacy rights of persons involved.
- (3) Any other information the superintendent of public instruction deems important to the public and the state board of education.

[06-02-051, recodified as § 181-86-200, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-076, § 180-86-200, filed 1/2/90, effective 2/2/90.]

Chapter 181-87 WAC

PROFESSIONAL CERTIFICATION—ACTS OF UNPROFESSIONAL CONDUCT

WAC

181-87-003	Authority.
181-87-005	Purpose.
181-87-010	Public policy goals of chapter.
181-87-015	Accountability for acts of unprofessional conduct.
181-87-020	Applicability of chapter to private conduct.
181-87-025	Exclusivity of chapter.
181-87-030	Prospective application of chapter and amendments.
181-87-035	Education practitioner—Definition.
181-87-040	Student—Definition.
181-87-045	Colleague—Definition.
181-87-050	Misrepresentation or falsification in the course of professional practice.
181-87-055	Alcohol or controlled substance abuse.
181-87-060	Disregard or abandonment of generally recognized professional standards.
181-87-065	Abandonment of contract for professional services.
181-87-070	Unauthorized professional practice.
181-87-080	Sexual misconduct with students.
181-87-085	Furnishing alcohol or controlled substance to students.
181-87-090	Improper remunerative conduct.
181-87-093	Failure to assure the transfer of student record information or student records.
181-87-095	Failure to file a complaint.

WAC 181-87-003 Authority. The authority for this chapter is RCW 28A.70.005 which authorizes the state board of education to establish, publish, and enforce rules and regulations determining eligibility for and certification of personnel employed in the common schools of this state. This authority is supplemented by RCW 28A.70.160 which authorizes the revocation of certificates for unprofessional conduct. (Note: RCW 28A.02.201 (3)(a) requires most private school classroom teachers to hold appropriate Washington state certification with few exceptions.)

[06-02-051, recodified as § 181-87-003, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-003, filed 1/2/90, effective 2/2/90.]

WAC 181-87-005 Purpose. The sole purpose of this chapter is to set forth policies and procedures related to reprimand, suspension, and revocation actions respecting certification of education practitioners in the state of Washington for acts of unprofessional conduct. It is recognized that grounds for the discharge, nonrenewal of contracts, or other adverse change in contract status affecting the employment contracts of education practitioners are broader than stated herein. The grounds set forth as unprofessional conduct in this chapter shall not limit discharge, nonrenewal of contracts, or other employment action by employers of education practitioners.

[06-02-051, recodified as § 181-87-005, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-005, filed 1/2/90, effective 2/2/90.]

WAC 181-87-010 Public policy goals of chapter. The public policy goals of this chapter are as follows:

- (1) To protect the health, safety, and general welfare of students within the state of Washington.
- (2) To assure the citizens of the state of Washington that education practitioners are accountable for acts of unprofessional conduct.
- (3) To define and provide notice to education practitioners within the state of Washington of the acts of unprofessional conduct for which they are accountable pursuant to the provisions of chapter 180-86 [181-86] WAC.

[06-02-051, recodified as § 181-87-010, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-010, filed 1/2/90, effective 2/2/90.]

WAC 181-87-015 Accountability for acts of unprofessional conduct. Any educational practitioner who commits an act of unprofessional conduct proscribed within this chapter may be held accountable for such conduct pursuant to the provisions of chapter 180-86 [181-86] WAC.

[06-02-051, recodified as § 181-87-015, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-015, filed 1/2/90, effective 2/2/90.]

WAC 181-87-020 Applicability of chapter to private conduct. As a general rule, the provisions of this chapter shall not be applicable to the private conduct of an education practitioner except where the education practitioner's role as a private person is not clearly distinguishable from the role as an education practitioner and the fulfillment of professional obligations.

[06-02-051, recodified as § 181-87-020, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-020, filed 1/2/90, effective 2/2/90.]

WAC 181-87-025 Exclusivity of chapter. No act, for the purpose of this chapter, shall be defined as an act of unprofessional conduct unless it is included in this chapter.

[06-02-051, recodified as § 181-87-025, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-025, filed 1/2/90, effective 2/2/90.]

WAC 181-87-030 Prospective application of chapter and amendments. The provisions of this chapter shall take effect ninety calendar days after adoption and shall apply prospectively to acts of unprofessional conduct committed after

such effective date. Unless provided to the contrary, any revision shall take effect six months after adoption and shall apply prospectively from such effective date.

[06-02-051, recodified as § 181-87-030, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-030, filed 1/2/90, effective 2/2/90.]

WAC 181-87-035 Education practitioner—Definition. As used in this chapter, the term "education practitioner" means any certificate holder licensed under rules of the state board of education to serve as a certificated employee.

[06-02-051, recodified as § 181-87-035, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-035, filed 1/2/90, effective 2/2/90.]

WAC 181-87-040 Student—Definition. As used in this chapter, the term "student" means the following:

- (1) Any student who is under the supervision, direction, or control of the education practitioner.
- (2) Any student enrolled in any school or school district served by the education practitioner.
- (3) Any student enrolled in any school or school district while attending a school related activity at which the education practitioner is performing professional duties.
- (4) Any former student who is under eighteen years of age and who has been under the supervision, direction, or control of the education practitioner. Former student, for the purpose of this section, includes but is not limited to drop outs, graduates, and students who transfer to other districts or schools.

[06-02-051, recodified as § 181-87-040, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-040, filed 1/2/90, effective 2/2/90.]

WAC 181-87-045 Colleague—Definition. As used in this chapter, the term "colleague" means any person with whom the education practitioner has established a professional relationship and includes fellow workers and employees regardless of their status as education practitioners.

[06-02-051, recodified as § 181-87-045, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-045, filed 1/2/90, effective 2/2/90.]

WAC 181-87-050 Misrepresentation or falsification in the course of professional practice. Any falsification or deliberate misrepresentation, including omission, of a material fact by an education practitioner concerning any of the following is an act of unprofessional conduct:

- (1) Statement of professional qualifications.
- (2) Application or recommendation for professional employment, promotion, certification, or an endorsement.
- (3) Application or recommendation for college or university admission, scholarship, grant, academic award, or similar benefit.
- (4) Representation of completion of inservice or continuing education credit hours.
- (5) Evaluations or grading of students and/or personnel.
- (6) Financial or program compliance reports submitted to state, federal, or other governmental agencies.

(7) Information submitted in the course of an official inquiry by the superintendent of public instruction related to the following:

- (a) Good moral character or personal fitness.
- (b) Acts of unprofessional conduct.

(8) Information submitted in the course of an investigation by a law enforcement agency or by child protective services regarding school related criminal activity.

[06-02-051, recodified as § 181-87-050, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-050, filed 1/2/90, effective 2/2/90.]

WAC 181-87-055 Alcohol or controlled substance abuse. Unprofessional conduct includes:

(1) Being under the influence of alcohol or of a controlled substance, as defined in chapter 69.50 RCW, on school premises or at a school-sponsored activity involving students, following:

(a) Notification to the education practitioner by his or her employer of concern regarding alcohol or substance abuse affecting job performance;

(b) A recommendation by the employer that the education practitioner seek counseling or other appropriate and available assistance; and

(c) The education practitioner has had a reasonable opportunity to obtain such assistance.

(2) The possession, use, or consumption on school premises or at a school sponsored activity of a Schedule 1 controlled substance, as defined by the state board of pharmacy, or a Schedule 2 controlled substance, as defined by the state board of pharmacy, without a prescription authorizing such use.

(3) The consumption of an alcoholic beverage on school premises or at a school sponsored activity involving students if such consumption is contrary to written policy of the school district or school building.

[06-02-051, recodified as § 181-87-055, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-055, filed 1/2/90, effective 2/2/90.]

WAC 181-87-060 Disregard or abandonment of generally recognized professional standards. Any performance of professional practice in flagrant disregard or clear abandonment of generally recognized professional standards in the course of any of the following professional practices is an act of unprofessional conduct:

(1) Assessment, treatment, instruction, or supervision of students.

(2) Employment or evaluation of personnel.

(3) Management of moneys or property.

[06-02-051, recodified as § 181-87-060, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-060, filed 1/2/90, effective 2/2/90.]

WAC 181-87-065 Abandonment of contract for professional services. Any permanent abandonment, constituting a substantial violation without good cause, of one of the following written contracts to perform professional services for a private school or a school or an educational service district is an act of unprofessional conduct:

(1) An employment contract, excluding any extracurricular or other specific activity within such contract or any supplementary contract.

(2) Professional service contract.

[06-02-051, recodified as § 181-87-065, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-065, filed 1/2/90, effective 2/2/90.]

WAC 181-87-070 Unauthorized professional practice. Any act performed without good cause that materially contributes to one of the following unauthorized professional practices is an act of unprofessional practice.

(1) The intentional employment of a person to serve as an employee in a position for which certification is required by rules of the state board of education when such person does not possess, at the time of commencement of such responsibility, a valid certificate to hold the position for which such person is employed.

(2) The assignment or delegation in a school setting of any responsibility within the scope of the authorized practice of nursing, physical therapy, or occupational therapy to a person not licensed to practice such profession unless such assignment or delegation is otherwise authorized by law, including the rules of the appropriate licensing board.

(3) The practice of education by a certificate holder during any period in which such certificate has been suspended.

(4) The failure of a certificate holder to abide by the conditions within an agreement, executed pursuant to WAC 180-86-160 [181-86-160], to not continue or to accept education employment.

(5) The failure of a certificate holder to comply with any condition, limitation, or other order or decision entered pursuant to chapter 180-86 [181-86] WAC.

(6) Provided, That for the purpose of this section, good cause includes, but is not limited to, exigent circumstances where immediate action is necessary to protect the health, safety, or general welfare of a student, colleague, or other affected person.

[06-02-051, recodified as § 181-87-070, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. 97-21-075, § 180-87-070, filed 10/17/97, effective 11/17/97. Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-070, filed 1/2/90, effective 2/2/90.]

WAC 181-87-080 Sexual misconduct with students. Unprofessional conduct includes the commission by an education practitioner of any sexually exploitive act with or to a student including, but not limited to, the following:

(1) Any sexual advance, verbal or physical;

(2) Sexual intercourse as defined in RCW 9A.44.010;

(3) Indecent exposure as defined in RCW 9A.88.010;

(4) Sexual contact, i.e., the intentional touching of the sexual or other intimate parts of a student except to the extent necessary and appropriate to attend to the hygienic or health needs of the student;

(5) Provided, That the provisions of this section shall not apply if at the time of the sexual conduct the participants are married to each other.

[06-02-051, recodified as § 181-87-080, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-080, filed 1/2/90, effective 2/2/90.]

WAC 181-87-085 Furnishing alcohol or controlled substance to students. Unprofessional conduct includes the illegal furnishing of alcohol or a controlled substance, as defined in chapter 69.50 RCW, to any student by an education practitioner.

[06-02-051, recodified as § 181-87-085, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-085, filed 1/2/90, effective 2/2/90.]

WAC 181-87-090 Improper remunerative conduct. Any deliberate act in the course of professional practice which requires or pressures students to purchase equipment, supplies, or services from the education practitioner in a private remunerative capacity is an act of unprofessional conduct.

[06-02-051, recodified as § 181-87-090, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-090, filed 1/2/90, effective 2/2/90.]

WAC 181-87-093 Failure to assure the transfer of student record information or student records. The failure of a principal or other certificated chief administrator of a public school building to make a good faith effort to assure compliance with RCW 28A.225.330 by establishing, distributing, and monitoring compliance with written procedures that are reasonably designed to implement the statute shall constitute an act of unprofessional conduct.

[06-02-051, recodified as § 181-87-093, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010, 28A.225.330(3) and 1995 c 311. 96-08-012, § 180-87-093, filed 3/25/96, effective 4/25/96.]

WAC 181-87-095 Failure to file a complaint. The intentional or knowing failure of an educational service district superintendent, a district superintendent, or a chief administrator of a private school to file a complaint pursuant to WAC 180-86-110 [181-86-110] regarding the lack of good moral character or personal fitness of an education practitioner or the commission of an act of unprofessional conduct by an education practitioner is an act of unprofessional conduct.

[06-02-051, recodified as § 181-87-095, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. 90-02-075, § 180-87-095, filed 1/2/90, effective 2/2/90.]

Chapter 181-88 WAC

DEFINITIONS OF SEXUAL MISCONDUCT, VERBAL ABUSE AND PHYSICAL ABUSE—MANDATORY DISCLOSURE—PROHIBITED AGREEMENTS

WAC

181-88-010	Purpose and authority.
181-88-020	Employee—Definition.
181-88-030	Student—Definition.
181-88-040	Verbal abuse—Definition.
181-88-050	Physical abuse—Definition.
181-88-060	Sexual misconduct—Definition.

WAC 181-88-010 Purpose and authority. (1) The purpose of this chapter is to provide the safest educational environment for children and staff and to implement legislative direction by:

(a) Defining the term "sexual misconduct" for purposes of requiring school districts to forward known information

about employee sexual misconduct to prospective school district employers; and

(b) Defining "sexual misconduct," "verbal abuse," and "physical abuse" for purposes of prohibiting school districts from entering into any contract or agreement that has the effect of suppressing information about verbal or physical abuse or sexual misconduct by a present or former employee, or has the effect of expunging such information from employer files.

(2) The authority for this chapter is RCW 28A.400.301.

[06-02-051, recodified as § 181-88-010, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.400.301. 04-23-011, § 180-88-010, filed 11/4/04, effective 12/5/04.]

WAC 181-88-020 Employee—Definition. As used in this chapter, the term "employee" means any employee or former employee of a school district, including all classified employees, all certificated employees, and all substitute employees.

[06-02-051, recodified as § 181-88-020, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.400.301. 04-23-011, § 180-88-020, filed 11/4/04, effective 12/5/04.]

WAC 181-88-030 Student—Definition. For purposes of this chapter, "student" shall have the same meaning as defined in WAC 180-87-040.

[06-02-051, recodified as § 181-88-030, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.400.301. 04-23-011, § 180-88-030, filed 11/4/04, effective 12/5/04.]

WAC 181-88-040 Verbal abuse—Definition. "Verbal abuse" means the use of malicious or hostile language by an employee that results in harm to another if the school district has determined that there is sufficient evidence to conclude that an employee engaged in the conduct and that it resulted in the employee leaving a position with the school district. Under RCW 28A.400.301, a district is prohibited from entering into any contract or agreement that has the effect of suppressing information about the abuse by a present or former employee or has the effect of expunging such information from employer files.

[06-02-051, recodified as § 181-88-040, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.400.301. 04-23-011, § 180-88-040, filed 11/4/04, effective 12/5/04.]

WAC 181-88-050 Physical abuse—Definition. (1) "Physical abuse" means the willful action by an employee of inflicting or attempting to inflict bodily injury against another, or using physical force in excess of what is necessary to restrain a person from harming self or others. To constitute physical abuse, a school district must possess sufficient information to conclude that the employee engaged in the conduct and that it resulted in the employee leaving a position with the school district. Under RCW 28A.400.301, a district is prohibited from entering into any contract or agreement that has the effect of suppressing information about the abuse by a present or former employee or has the effect of expunging such information from employer files.

(2) Authorized use of physical restraints or of aversive interventions consistent with chapter 392-172 WAC shall not constitute physical abuse.

[06-02-051, recodified as § 181-88-050, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.400.301. 04-23-011, § 180-88-050, filed 11/4/04, effective 12/5/04.]

WAC 181-88-060 Sexual misconduct—Definition.
"Sexual misconduct" means:

(1) Any sexually exploitive act with or to a student. Sexually exploitive acts include, but are not limited to, the following:

(a) Any sexual advance, verbal, written or physical.

(b) Sexual intercourse, as defined in RCW 9A.44.010.

(c) Sexual contact, i.e., the intentional touching of the sexual or other intimate parts of a student except to the extent necessary and appropriate to attend to the hygienic or health needs of the student.

(d) Any activities determined to be grooming behavior for purposes of establishing a sexual relationship.

(e) The provisions of (a) through (d) of this subsection shall not apply if at the time of the sexual conduct the participants are married to each other.

(2) Indecent exposure, as defined in RCW 9A.88.010.

(3) Sexual harassment of another as defined under local employer policy.

(4) Commission of a criminal sex offense as defined under chapter 9A.44 RCW.

(5) Sexual abuse or sexual exploitation of any minor as found in any dependency action under chapter 13.34 RCW or in any domestic relations proceeding under Title 26 RCW.

(6) For purposes of this section, sexual misconduct occurs only when a school district determines it has sufficient information to conclude that an employee engaged in the sexual misconduct and it resulted in the employee leaving a position with the school district. Under RCW 28A.400.301, a district is prohibited from entering into any contract or agreement that has the effect of suppressing information about the misconduct of a present or former employee or has the effect of expunging such information from employer files, and a district must forward information regarding sexual misconduct to prospective employing districts.

[06-02-051, recodified as § 181-88-060, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.400.301. 04-23-011, § 180-88-060, filed 11/4/04, effective 12/5/04.]

Title 182 WAC

HEALTH CARE AUTHORITY

Chapters

182-08	Procedures.
182-12	Eligible and noneligible employees.
182-16	Practice and procedure.
182-25	Washington basic health plan.

Chapter 182-08 WAC

PROCEDURES

WAC

182-08-196	What happens if my health carrier becomes unavailable?
182-08-197	Newly eligible employees must select insurance coverages within thirty-one days of the date they become eligible to apply for coverage.
182-08-198	When may an enrollee change health plans?

WAC 182-08-196 What happens if my health carrier becomes unavailable? Employees and retirees for whom the chosen health carrier becomes unavailable due to a change in service area, the health carrier no longer contracting, or the retiree's entitlement to Medicare must select a new health plan within sixty days after notification by the PEBB program.

(1) Employees that fail to select a new health plan within the prescribed time period will be enrolled in the health carrier's successor plan if one is available or will be enrolled in the Uniform Medical Plan and the Uniform Dental Plan with existing dependent enrollment by default.

(2) Retirees and surviving dependents eligible under WAC 182-12-250 or 182-12-265 that fail to select a new health plan within the prescribed time period will be enrolled in the health carrier's successor plan if one is available or will be enrolled in the Uniform Medical Plan and the Uniform Dental Plan, except that retirees enrolled in Medicare Part A and B and who enroll in Medicare Part D may be defaulted to a PEBB-sponsored Medicare plan that does not include a pharmacy benefit.

Any employee or retiree defaulted to a carrier's successor plan, the Uniform Medical Plan or the Uniform Dental Plan may not change health plans until the next open enrollment except as set forth in WAC 182-08-198.

(3) Enrollees continuing PEBB health plan coverage as provided in WAC 182-12-133, 182-12-148 or 182-12-270 (2) or (3) must select a new health plan no later than sixty days after notification by the PEBB program or their health plan coverage will terminate as of the last day of the month in which the plan is no longer available.

[Statutory Authority: RCW 41.05.160, 41.05.350, and 41.05.165. 05-16-046 (Order 05-01), § 182-08-196, filed 7/27/05, effective 8/27/05. Statutory Authority: RCW 41.05.160 and 41.05.165. 04-18-039, § 182-08-196, filed 8/26/04, effective 1/1/05; 03-17-031 (Order 02-07), § 182-08-196, filed 8/14/03, effective 9/14/03.]

WAC 182-08-197 Newly eligible employees must select insurance coverages within thirty-one days of the date they become eligible to apply for coverage. Newly eligible employees must select a medical and dental plan (if dental is available based on employer participation in PEBB insurance coverages) no later than thirty-one days after they become eligible to apply for coverage. Employees who do not select a medical and dental plan will be defaulted to Uniform Medical Plan and Uniform Dental Plan with existing dependent enrollment.

[Statutory Authority: RCW 41.05.160, 41.05.350, and 41.05.165. 05-16-046 (Order 05-01), § 182-08-197, filed 7/27/05, effective 8/27/05.]

WAC 182-08-198 When may an enrollee change health plans? (1) Enrollees may change health plans during the annual open enrollment.

(2) Enrollees may change health plans outside of the annual open enrollment period if one of the following events occur, provided the request to change health plans is made no later than sixty days after the event occurs.

(a) The enrollee moves and the health plan they are enrolled in is not available in their new location. If the enrollee fails to select a new health plan they will be automatically defaulted to the Uniform Medical Plan or Uniform Dental Plan.

(b) The enrollee moves and a health plan that was not available to them before is available to them in the new location. The enrollee may choose to enroll in the newly available health plan.

(c) A court order requires the enrollee to provide coverage for an eligible spouse, same-sex domestic partner, or child and the enrollee adds the dependent to the coverage.

(d) The enrollee is a seasonal employee who is off during the annual open enrollment period. In this case the enrollee may select a new health plan upon their return to work.

(e) The employee retires. Employees may change health plans at the time that they apply for PEBB-sponsored retiree coverage.

(f) The enrollee's physician stops participation with the enrollee's health plan and it is determined by the PEBB appeals manager that a continuity of care issue exists. The PEBB appeals manager shall use the following criteria in determining if continuity of care issues exist:

(i) Active cancer treatment, (i.e., chemotherapy and/or radiation);

(ii) Recent transplant (within the last twelve months);

(iii) Scheduled surgery within the next sixty days; or

(iv) Major surgery within the previous sixty days; or

(v) Third trimester of pregnancy.

(g) It is determined by the PEBB appeals manager that there is a language barrier issue (e.g., a Vietnamese speaking provider discontinues participation in a plan and no other Vietnamese speaking provider is available within the subscriber's area that is contracting with that plan and/or within the travel range of the subscriber).

(h) The enrollee reaches their medical plan maximum.

(3) For enrollees making a health plan change during the annual open enrollment, the plan change must be made no later than the last day of the open enrollment period and the plan change is effective the first day of January following the open enrollment.

(4) For enrollees making a health plan change outside of open enrollment, the health plan change must be made no later than sixty days after the triggering event and the plan change is effective the first day of the month following the date the change request is received by the PEBB program.

[Statutory Authority: RCW 41.05.160, 41.05.350, and 41.05.165. 05-16-046 (Order 05-01), § 182-08-198, filed 7/27/05, effective 8/27/05.]

Chapter 182-12 WAC

ELIGIBLE AND NONELIGIBLE EMPLOYEES

WAC

182-12-115	Eligible employees.
182-12-116	Who is eligible to participate in the PEBB flexible spending account program?
182-12-148	May an employee continue PEBB insurance coverage during their appeal of dismissal?
182-12-171	Eligible retirees.
182-12-175	May a local government entity applying for participation in PEBB insurance coverage include their retirees in the transfer unit?
182-12-205	Retirees may defer enrollment in PEBB health plan coverage at or following retirement.
182-12-260	Eligible dependents defined.
182-12-265	What options for continuing health plan coverage are available to widows, widowers and dependent children if the employee or retiree dies?
182-12-270	What options are available to dependents that cease to meet the definition of dependent in WAC 182-12-260?

WAC 182-12-115 Eligible employees. The following employees of state government, higher education, K-12 school districts, educational service districts, political subdivisions and employee organizations representing state civil service workers are eligible to apply for PEBB insurance coverage. For purposes of defining eligible employees of school districts and educational service districts, a collective bargaining agreement will supersede all definitions provided under this chapter 182-12 WAC only if approved by the HCA.

(1) "Permanent employees." Those who work at least half-time per month and are expected to be employed for more than six months. Coverage begins on the first day of the month following the date of employment. If the date of employment is the first working day of a month, coverage begins on the date of employment.

(2) "Nonpermanent employees." Those who work at least half-time and are expected to be employed for no more than six months. Coverage begins on the first day of the seventh month following the date of employment.

(3) "Seasonal employees." Those who work at least half-time per month during a designated season for a minimum of three months but less than nine months per year and who have an understanding of continued employment season after season. Coverage begins on the first day of the month following the date of employment. If the date of employment is the first working day of a month, coverage begins on the date of employment. However, seasonal employees are not eligible for the employer contribution during the break between seasons of employment but may be eligible to continue coverage by self-paying premiums.

(4) "Career seasonal/instructional year employees." Employees who work half-time or more on an instructional year (school year) or equivalent nine-month seasonal basis. Coverage begins on the first day of the month following the date of employment. If the date of employment is the first working day of the month, coverage begins on the date of employment. These employees are eligible to receive the employer contribution for insurance during the off-season following each period of seasonal employment.

(5)(a) "Part-time faculty" and "part-time academic employees." Employees who are employed on a quarter/semester to quarter/semester basis are eligible to apply for

coverage beginning with the second consecutive quarter/semester of half-time or more employment at one or more state institutions of higher education including one or more college districts. Coverage begins on the first day of the month following the beginning of the second quarter/semester of half-time or more employment. If the first day of the second consecutive quarter/semester is the first working day of the month, coverage begins at the beginning of the second consecutive quarter/semester.

For the purpose of determining eligibility for part-time faculty and part-time academic employees, employers must:

(i) Consider spring and fall as consecutive quarters/semesters when determining eligibility; and

(ii) Determine "half-time or more employment" based on each institution's definition of "full-time"; and

(iii) At the beginning of each quarter/semester notify, in writing, all current and newly hired part-time faculty and part-time academic employees of their potential right to benefits under this section.

(iv) Part-time faculty and part-time academic employees employed at more than one institution are responsible for notifying each employer quarterly, in writing, of the employee's multiple employment. In no case will retroactive coverage be permitted or employer contribution paid to HCA if an employee fails to inform all of his/her employing institutions about employment at all institutions within the current quarter; and

(v) Where concurrent employment at more than one state higher education institution is used to determine total employment of half-time or more, the employing institutions will arrange to prorate the cost of the employer insurance contribution based on the employment at each institution. However, if the employee would be eligible by virtue of employment at one institution, that institution will pay the entire cost of the employer contribution regardless of other higher education employment. In cases where the cost of the contribution is prorated between institutions, one institution will forward the entire contribution monthly to HCA; and

(vi) Once enrolled, if a part-time faculty or part-time academic employee does not work at least a total of half-time in one or more state institutions of higher education, eligibility for the employer contribution ceases.

(b) Part-time academic employees of community and technical colleges—eligibility for summer or off season benefits when the employee has a reasonable expectation of continued employment at a single college district or multiple college districts.

Effective May 1, 2005, through April 2006.

(i) Part-time academic employees who work half-time or more in each instructional year quarter or equivalent nine-month season for one or more academic years in a single college district or multiple college districts as determined from the payroll records of the employing community or technical college district(s), are eligible for the employer contribution for health benefits during the quarter or off season period immediately following the end of one academic year or equivalent nine-month season. Eligibility for summer or off season health benefits continues each summer quarter or off season thereafter following employment in an instructional year or equivalent nine-month period of employment in a single college district or multiple college districts.

(ii) For purposes of this section:

(A) "Academic employee" has the meaning set forth in RCW 28B.50.489(3).

(B) "Academic year" means fall, winter, and spring quarters in a community or technical college, as determined from the payroll records of the employing college district or college districts.

(C) "Equivalent nine-month seasonal basis" means a nine consecutive month period of employment at half-time or more by a single college district or multiple college districts, as determined from the payroll records of the employing college district(s).

(D) "Health benefits" means the particular medical and/or dental coverage in place at the end of the academic year or equivalent nine-month season. Changes to health benefits may be made only as set forth in chapter 182-08 WAC or during an annual open enrollment period.

(6) "Appointed and elected officials." Legislators are eligible to apply for coverage on the date their term begins. All other elected and full-time appointed officials of the legislative and executive branches of state government are eligible to apply for coverage on the date their term begins or they take the oath of office, whichever occurs first. Coverage for legislators begins on the first day of the month following the date their term begins. If the term begins on the first working day of the month, coverage begins on the first day of their term. Coverage begins for all other elected and full-time appointed officials of the legislative and executive branches of state government on the first day of the month following the date their term begins, or the first day of the month following the date they take the oath of office, whichever occurs first. If the term begins, or oath of office is taken, on the first working day of the month, coverage begins on the date the term begins, or the oath of office is taken.

(7) "Judges." Justices of the supreme court and judges of courts of appeals and the superior courts become eligible to apply for coverage on the date they take the oath of office. Coverage begins on the first day of the month following the date their term begins, or the first day of the month following the date they take oath of office, whichever occurs first. If the term begins, or oath of office is taken, on the first working day of a month, coverage begins on the date the term begins, or the oath of office is taken.

[Statutory Authority: RCW 41.05.160. 05-17-132 (Order 04-04), § 182-12-115, filed 8/19/05, effective 9/2/05. Statutory Authority: RCW 41.05.160 and 41.05.165. 03-17-031 (Order 02-07), § 182-12-115, filed 8/14/03, effective 9/14/03. Statutory Authority: Chapter 41.05 RCW. 96-08-043, § 182-12-115, filed 3/29/96, effective 4/29/96; 92-08-003, § 182-12-115, filed 3/18/92, effective 3/18/92; 91-14-084, § 182-12-115, filed 7/1/91, effective 7/1/91. Statutory Authority: RCW 41.05.065(3). 90-12-037, § 182-12-115, filed 5/31/90, effective 7/1/90. Statutory Authority: RCW 41.05.065. 89-12-045 (Resolution No. 89-2), § 182-12-115, filed 6/2/89; 89-01-053 (Resolution No. 88-6), § 182-12-115, filed 12/15/88. Statutory Authority: RCW 41.05.010. 88-19-078 (Resolution No. 88-4), § 182-12-115, filed 9/19/88; 88-12-034 (Resolution No. 88-1), § 182-12-115, filed 5/26/88, effective 7/1/88. Statutory Authority: Chapter 41.05 RCW. 86-21-042 (Resolution No. 86-6), § 182-12-115, filed 10/10/86; 83-12-007 (Order 2-83), § 182-12-115, filed 5/20/83; 80-05-016 (Order 2-80), § 182-12-115, filed 4/10/80; 78-08-071 (Order 5-78), § 182-12-115, filed 7/26/78; Order 5646, § 182-12-115, filed 2/9/76.]

WAC 182-12-116 Who is eligible to participate in the PEBB flexible spending account program? State agency employees, including those employed by all state higher education institutions, the higher education coordinating board, and the state board for community and technical colleges, who are eligible for PEBB insurance benefits as defined in WAC 182-12-115 are eligible to participate in the PEBB flexible spending account program.

[Statutory Authority: RCW 41.05.160, 41.05.350, and 41.05.165. 05-16-046 (Order 05-01), § 182-12-116, filed 7/27/05, effective 8/27/05.]

WAC 182-12-148 May an employee continue PEBB insurance coverage during their appeal of dismissal? (1) Employees awaiting hearing of a dismissal action before any of the following may continue their insurance coverage by self-payment of premium on the same terms as an employee who is granted leave without pay.

(a) For an appeal filed on or before June 30, 2005, the personnel appeals board or any court.

(b) For an appeal filed on or after July 1, 2005, the personnel resources board, an arbitrator, a grievance or appeals committee established under a collective bargaining agreement for union represented employees.

(2) If the dismissal is upheld, all insurance coverage shall terminate at the end of the month in which the decision is entered, or the date to which premiums have been paid, whichever is earlier.

(3)(a) If the board, arbitrator, committee, or court sustains the employee in the appeal and directs reinstatement of employer paid insurance coverage retroactively, the employer must forward to HCA the full employer contribution for the period directed by the board, arbitrator, committee, or court and collect from the employee the employee's share of premiums due, if any.

(b) HCA will refund to the employee any premiums the employee paid that may be provided for as a result of the reinstatement of the employer contribution only if the employee makes retroactive payment of any employee contribution amounts associated with the insurance coverage. In the alternative, at the request of the employee, HCA may deduct the employee's contribution from the refund of any premiums self-paid by the employee during the appeal period.

(c) All optional life and long term disability insurance which was in force at the time of dismissal shall be reinstated retroactively only if the employee makes retroactive payment of premium for any such optional coverage which was not continued by self-payment during the appeal process. If the employee chooses not to pay the retroactive premium, evidence of insurability will be required to restore such optional coverage.

[Statutory Authority: RCW 41.05.160, 41.05.350, and 41.05.165. 05-16-046 (Order 05-01), § 182-12-148, filed 7/27/05, effective 8/27/05. Statutory Authority: RCW 41.05.160 and 41.05.165. 04-18-039, § 182-12-148, filed 8/26/04, effective 1/1/05.]

WAC 182-12-171 Eligible retirees. (1) Eligible employees who terminate public employment after becoming vested in a Washington state sponsored retirement system are eligible to continue PEBB sponsored insurance coverage as a retiree provided the following requirements in (a) and (b) of

this subsection as well as one of (c) through (g) of this subsection are met:

(a) If the retiree or enrolled dependent(s) is entitled to Medicare and the retiree retired after July 1, 1991, the Medicare-entitled retiree or Medicare-entitled dependent must enroll in both Medicare Parts A and B; and

(b) The retiring employee must submit an election form to enroll or defer health plan coverage within sixty days after their employer paid or continuous Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage ends and is eligible for retiree benefits under one or more of the programs described in (c), (d), (e), (f), or (g) of this subsection;

(c) Except as provided in (c)(vii) of this subsection, the person immediately upon termination begins receiving a monthly retirement income benefit from one or more of the following retirement systems:

(i) Law enforcement officers' and fire fighters' retirement system Plan 1 or 2;

(ii) Public employees' retirement system Plan 1 or 2;

(iii) School employees' retirement system Plan 2;

(iv) State judges/judicial retirement system;

(v) Teachers' retirement system Plan 1 or 2; or

(vi) Washington state patrol retirement system.

(vii) Provided, however, that a lump-sum payment may be received in lieu of a monthly retiree income benefit payment under RCW 41.26.425(1), 41.32.762(1), 41.32.870(1), 41.35.410(1), 41.35.670(1), 41.40.625(1) or 41.40.815(1).

(d) The person is at least fifty-five years of age with at least ten years of state of Washington service credit and a member of one of the following retirement systems:

(i) Public employees' retirement system Plan 3;

(ii) School employees' retirement system Plan 3; or

(iii) Teachers' retirement system Plan 3.

(e) The person is a member of a state of Washington higher education retirement plan, and is:

(i) At least fifty-five years of age with at least ten years service; or

(ii) At least sixty-two years of age; or

(iii) Immediately begins receiving a monthly retirement income benefit.

(f) If not retiring under the public employees' retirement system, the person would have been eligible for a monthly retirement income benefit because of age and years of service had the person been employed under the provisions of public employees' retirement system Plan 1 or Plan 2 for the same period of employment.

(g) The person is an elected official as defined under WAC 182-12-115(6) who has voluntarily or involuntarily left a public office, whether or not the person receives a benefit from a state retirement system.

(2) Eligible employees who participate in PEBB sponsored life insurance as an active employee and meet qualifications for retiree insurance coverage as provided in subsection (1) of this section are eligible for PEBB sponsored retiree life insurance if they submit an election form no later than sixty days after the date their PEBB employee life insurance terminates, providing their employee life insurance premium is not being waived by the life insurance carrier at the time they elect retiree life insurance.

(3) The following retired and disabled school district and educational service district employees are eligible to partici-

pate in health plan coverage only, provided they meet all of the enrollment criteria stated below and, if they are entitled to Medicare, are also enrolled in both Medicare Parts A and B:

(a) Persons receiving a retirement allowance under chapter 41.32, 41.35 or 41.40 RCW as of September 30, 1993, and who enroll in PEBB health plan coverage not later than the end of the open enrollment period established by the authority for the plan year beginning January 1, 1995;

(b) Persons who separate from employment with a school district or educational service district due to a total and permanent disability and are eligible to receive a deferred retirement allowance under chapter 41.32, 41.35 or 41.40 RCW. Such persons must enroll in PEBB health plan coverage not later than the end of the open enrollment period established by the HCA for the plan year beginning January 1, 1995, or sixty days following retirement, whichever is later.

(4) With the exception of the Washington state patrol, retirees and disabled employees are not eligible for an employer premium contribution.

(5) The two federal retirement systems, Civil Service Retirement System and Federal Employees Retirement System, shall be considered a Washington state sponsored retirement system for Washington State University Extension employees who are covered under the PEBB insurance coverage at the time of retirement or disability.

(6) Employees who do not elect enrollment in PEBB retiree insurance coverage no later than sixty days immediately after termination of employment for retirement, or immediately after continuous Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage ends, or who terminate PEBB retiree coverage no later than sixty days after retirement, or who terminate PEBB retiree coverage after retirement, are not eligible to reenroll in PEBB retiree insurance coverage unless they retired and deferred PEBB retiree coverage pursuant to WAC 182-12-205 or retired and deferred PEBB retiree coverage pursuant to WAC 182-12-200.

(7)(a) If a retiree's insurance coverage terminates for any reason, coverage will not be reinstated at a later date. Examples of termination include, but are not limited to, any one or more of the following:

(i) Failure to continue to meet eligibility requirements;

(ii) Fraud, intentional misrepresentation or withholding of information the enrollee knew or should have known was material or necessary to accurately determine eligibility or the correct premium;

(iii) Failure to provide information requested by the due date or knowingly providing false information;

(iv) Abusive or offensive conduct repeatedly directed to an HCA employee, a health plan or other HCA contractor providing coverage on behalf of the PEBB program, its employees, or other persons; or

(v) Intentional misconduct.

(b) If a retiree fails to pay the premium when due or an underpayment of premium is made, PEBB sponsored insurance coverage will terminate on the last day of the month for which the last full premium was received.

(c) Notwithstanding (a) of this subsection, the PEBB assistant administrator or designee may approve reinstatement of insurance coverage if the retiree or their dependent or beneficiary submits a written appeal and provides proof that

extraordinary circumstances made it virtually impossible to make the payment and the retiree agrees to make payment in accordance with the terms of an agreement with the HCA. No insurance coverage will be reinstated more than three times.

(8) Enrollees may not enroll in retiree dental coverage unless they also enroll in retiree medical coverage.

(9) In order to continue retiree term life insurance, an election must be made within sixty days after retirement and premiums must be paid whether or not the retiree is otherwise employed. Election of retiree term life insurance may not be waived or deferred during periods of other coverage or otherwise.

[Statutory Authority: RCW 41.05.160, 41.05.350, and 41.05.165. 05-16-046 (Order 05-01), § 182-12-171, filed 7/27/05, effective 8/27/05. Statutory Authority: RCW 41.05.160 and 41.05.165. 04-18-039, § 182-12-171, filed 8/26/04, effective 1/1/05.]

WAC 182-12-175 May a local government entity applying for participation in PEBB insurance coverage include their retirees in the transfer unit? Local government entities applying for participation in PEBB insurance coverage under WAC 182-12-111(4), may request inclusion of retired employees who are covered under their retiree health plan at the time of application. The PEBB program will use the following criteria for approval of these requests for inclusion of retirees.

(1) The local government retiree health plan must have existed for a minimum of three years prior to the date of application for participation in PEBB health plans.

(2) Eligibility for coverage under the local government's retiree health plan must have required immediate enrollment in retiree health plan coverage upon termination of employee coverage.

(3) The retiree must have maintained continuous enrollment in their local government retiree health plan.

(4) To protect the integrity of the risk pool, if total local government retiree enrollment exceeds ten percent of the total PEBB retiree population, the PEBB program may:

(a) Stop approving inclusion of retirees with local government unit transfers; or

(b) May adopt a new rating methodology reflective of the cost of covering local government retirees.

(5) Retirees and dependents included in the transfer unit are subject to the enrollment and eligibility rules outlined in chapters 182-08, 182-12 and 182-16 WAC.

(6) Employees eligible for retirement subsequent to the local government transferring to PEBB health plan coverage must meet retiree eligibility as outlined in chapter 182-12 WAC.

[Statutory Authority: RCW 41.05.160, 41.05.350, and 41.05.165. 05-16-046 (Order 05-01), § 182-12-175, filed 7/27/05, effective 8/27/05.]

WAC 182-12-205 Retirees may defer enrollment in PEBB health plan coverage at or following retirement. (1) Beginning January 1, 2001, retirees may defer enrollment in health plan coverage at or following retirement if they are continuously covered under:

(a) Comprehensive employer sponsored medical coverage as an employee or as the spouse or same sex domestic partner of an employee; or

(b) As a retiree or as the spouse or as the same sex domestic partner of a retiree's retirement insurance from a federal retiree plan.

(2) If a retiree defers enrollment in PEBB health plan coverage, coverage is automatically waived for all eligible dependents.

(3) Election of retiree term life insurance coverage may not be deferred during periods of other coverage or otherwise.

(4) In order to defer health plan coverage, a retiree must submit the appropriate form to the PEBB program requesting deferment of coverage. The notice of deferral must be received by PEBB benefit services prior to the date coverage is deferred or within sixty days after the date the retiree is eligible to apply for PEBB sponsored retiree benefits.

(5) Retirees may reenroll in PEBB coverage following the end of a deferral period under conditions listed below.

(a) Retirees who defer PEBB health plan coverage while enrolled in employer sponsored medical coverage, may reenroll in PEBB health plan coverage by submitting the appropriate form(s) and satisfactory evidence of continuous enrollment in comprehensive employer sponsored coverage to the PEBB program:

(i) During an annual open enrollment period; or

(ii) No later than sixty days after the last day of the employer sponsored coverage.

(b) Retirees who defer PEBB health plan coverage while enrolled as a retiree or dependent of a retiree in a federal retiree plan will have a one-time opportunity to reenroll in PEBB health plan coverage by submitting the appropriate form(s) and satisfactory evidence of continuous enrollment in a federal retiree medical plan to the PEBB program:

(i) During an annual open enrollment period; or

(ii) No later than sixty days after the date their federal retiree coverage ends.

(c) PEBB health plan enrollment will be effective the first day of the month following the date employer sponsored coverage or coverage under a federal retiree plan ended, except that reenrollment in PEBB insurance coverage during the annual open enrollment will become effective the first day of January following the open enrollment period.

[Statutory Authority: RCW 41.05.160, 41.05.350, and 41.05.165. 05-16-046 (Order 05-01), § 182-12-205, filed 7/27/05, effective 8/27/05. Statutory Authority: RCW 41.05.160 and 41.05.165. 04-18-039, § 182-12-205, filed 8/26/04, effective 1/1/05.]

WAC 182-12-260 Eligible dependents defined. The following are eligible as dependents under the PEBB eligibility rules:

(1) Lawful spouse.

(2) A same sex domestic partner qualified through the declaration certificate issued by PEBB.

(3) Dependent children through age nineteen. The term "children" includes the subscriber's biological children, step-children, legally adopted children, children for whom the subscriber has assumed a legal obligation for total or partial support of a child in anticipation of adoption of the child, children of the subscriber's qualified same sex domestic partner, or children specified in a court order or divorce decree. Married children who qualify as dependents of the subscriber under the Internal Revenue Code, and extended dependents

approved by PEBB are included. To qualify for PEBB approval, the subscriber must demonstrate legal custody for the child with a court order, and the child:

(a) Must be living with the subscriber in a parent-child relationship; and

(b) Must not be a foster child for whom support payments are made to the subscriber through the state department of social and health services (DSHS) foster care program.

(4) Dependent children age twenty through age twenty-three and who are registered students at an accredited secondary school, college, university, vocational school, or school of nursing.

(a) Dependent student coverage begins the first day of the month in which the quarter/semester for which the dependent is registered begins and ends the last day of the month in which the dependent stops attending or in which the quarter/semester ends, whichever is first, except that dependent student eligibility continues year-round for those who attend three of the four school quarters or two semesters.

(b) Dependent student coverage continues during the three month period following graduation provided the subscriber is covered, at the same time, the dependent has not reached age twenty-four, and the dependent meets all other eligibility requirements.

(5) Dependent children of any age with disabilities, developmental disabilities, mental illness or mental retardation who are incapable of self-support, provided such condition occurs prior to age twenty or during the time the dependent was eligible as a student under subsection (4) of this section. The subscriber must provide proof that such disability occurred prior to the dependent's attainment of age twenty or during the time the dependent satisfies eligibility for student coverage under subsection (4) of this section, and as periodically requested thereafter by the PEBB program.

(a) The subscriber must notify the PEBB program, in writing, no later than sixty days after the date that a dependent child age twenty or older no longer qualifies under this subsection.

(i) For example, children who become self-supporting are not eligible under this rule as of the last day of the month in which they become capable of self-support. The dependent may be eligible to continue PEBB coverage under provisions of WAC 182-12-270.

(ii) Children age twenty and older that become capable of self-support do not regain eligibility under subsection (5) of this section if they later become incapable of self-support.

(6) Dependent parents.

(a) Dependent parents covered under a PEBB medical plan before July 1, 1990, may continue enrollment on a self-pay basis as long as:

(i) The parent maintains continuous coverage in PEBB sponsored medical coverage;

(ii) The parent qualifies under the Internal Revenue Code as a dependent of an eligible subscriber;

(iii) The subscriber who claimed the parent as a dependent continues enrollment in PEBB insurance coverage; and

(iv) The parent is not covered by any other group medical coverage.

(b) Dependent parents that are eligible under (a) of this subsection may be enrolled with a different health carrier

than that selected by the eligible subscriber; however, dependent parents may not add additional dependents to their coverage.

(7) The enrollee must notify the PEBB program, in writing, no later than sixty days after the date that a dependent no longer qualifies under subsection (1), (2), (3), (4) or (6) of this section. The subscriber must notify the PEBB program in writing no later than sixty days after the date a dependent no longer qualifies under subsection (5) of this section. A PEBB continuation of coverage election notice will only be available if the PEBB program is notified in writing within the sixty-day period.

[Statutory Authority: RCW 41.05.160, 41.05.350, and 41.05.165. 05-16-046 (Order 05-01), § 182-12-260, filed 7/27/05, effective 8/27/05. Statutory Authority: RCW 41.05.160 and 41.05.165. 04-18-039, § 182-12-260, filed 8/26/04, effective 1/1/05.]

WAC 182-12-265 What options for continuing health plan coverage are available to widows, widowers and dependent children if the employee or retiree dies? (1) Dependents that lose eligibility due to the death of an eligible employee may continue health plan coverage under a retiree plan provided they immediately begin receiving a monthly retirement benefit from any state of Washington sponsored retirement system.

(a) The employee's spouse or qualified same sex domestic partner may continue coverage until death.

(b) Other dependents may continue coverage until they lose eligibility under PEBB rules.

(c) If a surviving dependent of an eligible employee is not eligible for a monthly retirement benefit or a lump-sum payment because the monthly pension payment would be less than the minimum amount established by the department of retirement systems, the dependent may continue health plan coverage under provisions of the federal Consolidated Omnibus Budget Reconciliation Act (COBRA) or WAC 182-12-270.

(d) The two federal retirement systems, Civil Service Retirement System and Federal Employees Retirement System, shall be considered a Washington sponsored retirement system for Washington State University extension service employees who were covered under PEBB insurance coverage at the time of death.

(2) Dependents that lose eligibility due to the death of a PEBB eligible retiree may continue health plan coverage under a retiree plan.

(a) The retiree's spouse or qualified same sex domestic partner may continue coverage until death.

(b) Other dependents may continue coverage until they lose eligibility under PEBB rules.

(c) Dependents that are waiving PEBB health plan coverage at the time of the retiree's death are eligible to enroll or defer PEBB retiree coverage. A form to enroll or defer PEBB health plan coverage must be hand-delivered or mailed to PEBB benefit services no later than sixty days after the retiree's death. To enroll in PEBB health plan coverage, the dependent must provide satisfactory evidence that enrollment in other health plan coverage was continuous from the most recent open enrollment period for which PEBB coverage was waived.

(3) Surviving spouses or eligible dependent children of a deceased school district or educational service district employee who were not enrolled in PEBB insurance coverage at the time of the subscriber's death may enroll in PEBB sponsored health plan coverage provided the employee died on or after October 1, 1993, and the dependent(s) immediately began receiving a retirement benefit allowance under chapter 41.32, 41.35 or 41.40 RCW.

(a) The employee's spouse or qualified same-sex domestic partner may continue health plan coverage until death.

(b) Other dependents may continue coverage until they lose eligibility under PEBB rules.

(4) Application for surviving dependent coverage must be made in writing on an election form approved by PEBB no later than sixty days after the date of death of the employee or retiree. Coverage is retroactive to the date the employee or retiree insurance coverage terminated subject to the payment of premium. In order to avoid duplication of group medical coverage, surviving dependents may defer enrollment in PEBB health plan coverage for each full calendar month in which they maintain coverage under other employer sponsored comprehensive medical coverage. Notice of intent to defer PEBB coverage must be sent in writing to PEBB benefit services no later than sixty days after the date of death of the subscriber.

(5) Surviving dependents that defer coverage while enrolled in an employer sponsored comprehensive medical plan must submit an application to reenroll in PEBB coverage no later than sixty days after the last day of coverage under the employer sponsored medical plan. Satisfactory evidence of continuous enrollment in an employer sponsored comprehensive medical coverage will be required by the PEBB program prior to reenrollment in a PEBB health plan.

[Statutory Authority: RCW 41.05.160, 41.05.350, and 41.05.165. 05-16-046 (Order 05-01), § 182-12-265, filed 7/27/05, effective 8/27/05. Statutory Authority: RCW 41.05.160 and 41.05.165. 04-18-039, § 182-12-265, filed 8/26/04, effective 1/1/05.]

WAC 182-12-270 What options are available to dependents that cease to meet the definition of dependent in WAC 182-12-260? If eligible, dependents may continue enrollment in PEBB health plan coverage under one of the continuation options in subsection (1), (2), or (3) of this section by self-paying premiums following their loss of eligibility. PEBB must receive a timely election form as outlined in the *PEBB Initial Notice of COBRA and Continuation Coverage Rights*. Options for continuing coverage are based on the reason that eligibility was lost.

(1) Dependents that lose eligibility due to the death of an employee or retiree may be eligible to continue coverage under provisions of WAC 182-12-265.

(2) Dependents of a lawful marriage that lose eligibility because they no longer meet the definition of dependent as defined in WAC 182-12-260 are eligible to continue coverage under provisions of the federal Consolidated Omnibus Budget Reconciliation Act (COBRA); or

(3) Dependents of a qualified same sex domestic partnership that lose eligibility because they no longer meet the definition of dependent as defined in WAC 182-12-260 may continue under an extension of PEBB coverage for a maximum of thirty-six months.

No extension of PEBB coverage will be offered unless PEBB benefits services is notified through hand-delivery or United States Postal Service mail of a completed notice of qualifying event as outlined in the *PEBB Initial Notice of COBRA and Continuation Coverage Rights*.

[Statutory Authority: RCW 41.05.160, 41.05.350, and 41.05.165. 05-16-046 (Order 05-01), § 182-12-270, filed 7/27/05, effective 8/27/05. Statutory Authority: RCW 41.05.160 and 41.05.165. 04-18-039, § 182-12-270, filed 8/26/04, effective 1/1/05.]

Chapter 182-16 WAC PRACTICE AND PROCEDURE

WAC

182-16-040 Appeals—Notice of appeal contents.
182-16-050 Appeals—Hearings.

WAC 182-16-040 Appeals—Notice of appeal contents. Except as provided by RCW 48.43.530 and 48.43.535, any person aggrieved by a decision of the health care authority's PEBB program may appeal that decision by filing a notice of appeal with the PEBB program's appeals manager. The notice of appeal must contain:

- (1) The name and mailing address of the enrollee;
- (2) The name and mailing address of the appealing party;
- (3) The name and mailing address of the appealing party's representative, if any;
- (4) A statement identifying the specific portion of the decision being appealed making it clear what it is that is believed to be unlawful or unjust;
- (5) A clear and concise statement of facts in support of appealing party's position;
- (6) Any and all information or documentation that the aggrieved person would like considered and feels substantiates why the decision should be reversed (information or documentation submitted at a later date, unless specifically requested by the appeals manager, may not be considered in the appeal decision);
- (7) A copy of the PEBB program's or health carrier's response to the issue the appellant has raised;
- (8) The type of relief sought;
- (9) A statement that the appealing party has read the notice of appeal and believes the contents to be true, followed by his or her signature and the signature of his or her representative, if any;
- (10) The appealing party shall file the original notice of appeal with PEBB benefit services using hand delivery, electronic mail or United States Postal Service mail. The notice of appeal must be received by PEBB benefit services within sixty days after the decision of the PEBB staff was mailed to the appealing party. The PEBB appeals manager shall acknowledge receipt of the copies filed with PEBB benefit services;
- (11) The appeals officer will render a written decision within thirty working days after receipt of the complete notice of appeal.

[Statutory Authority: RCW 41.05.160, 41.05.350, and 41.05.165. 05-16-046 (Order 05-01), § 182-16-040, filed 7/27/05, effective 8/27/05. Statutory Authority: RCW 41.05.160. 97-21-128, § 182-16-040, filed 10/21/97, effective 11/21/97. Statutory Authority: RCW 41.05.010 and 34.05.250. 91-14-025, § 182-16-040, filed 6/25/91, effective 7/26/91.]

WAC 182-16-050 Appeals—Hearings. (1) If the health care authority's appeals officer upholds the original denial, the enrollee may request an administrative hearing in writing to the PEBB program's appeals manager. PEBB benefit services must receive the written request for a hearing within fifteen days of the date the appeals decision was mailed to the appellant.

(2) The agency shall set the time and place of the hearing and give not less than seven days notice to all parties and persons who have filed written petitions to intervene.

(3) The administrator or his or her designee shall preside at all hearings resulting from the filings of appeals.

(4) All hearings shall be conducted in compliance with these rules, chapter 34.05 RCW and chapter 10-08 WAC as applicable.

(5) Within ninety days of the hearing, the administrator or his or her designee shall render a decision which shall be the final decision of the agency. A copy of that decision accompanied by a written statement of the reasons for the decision shall be served on all parties and persons who have intervened.

[Statutory Authority: RCW 41.05.160, 41.05.350, and 41.05.165. 05-16-046 (Order 05-01), § 182-16-050, filed 7/27/05, effective 8/27/05. Statutory Authority: RCW 41.05.160. 97-21-128, § 182-16-050, filed 10/21/97, effective 11/21/97. Statutory Authority: RCW 41.05.010 and 34.05.250. 91-14-025, § 182-16-050, filed 6/25/91, effective 7/26/91.]

Chapter 182-25 WAC WASHINGTON BASIC HEALTH PLAN

WAC

182-25-010 Definitions.
182-25-040 Enrollment in the plan.

WAC 182-25-010 Definitions. The following definitions apply throughout these rules.

(1) "Administrator" means the administrator of the Washington state health care authority (HCA) or designee.

(2) "Appeal procedure" means a formal written procedure for resolution of problems or concerns raised by enrollees which cannot be resolved in an informal manner to the enrollee's satisfaction.

(3) "Basic health plan" (or "BHP") means the system of enrollment and payment for basic health care services administered by the administrator through managed health care systems.

(4) "BHP Plus" means the program of expanded benefits available to children through coordination between the department of social and health services (DSHS) and basic health plan. Eligibility for BHP Plus is determined by the department of social and health services, based on Medicaid eligibility criteria. To be eligible for the program children must be under age nineteen, with a family income at or below two hundred percent of federal poverty level, as defined by the United States Department of Health and Human Services. They must be Washington state residents, not eligible for Medicare, and may be required to meet additional DSHS eligibility requirements.

(5) "Co-payment" means a payment indicated in the schedule of benefits which is made by an enrollee to a health care provider or to the MHCS.

(6) "Covered services" means those services and benefits in the BHP schedule of benefits (as outlined in the member handbook issued to the enrollee, or to a subscriber on behalf of the enrollee), which an enrollee shall be entitled to receive from a managed health care system in exchange for payment of premium and applicable co-payments, coinsurance and deductible.

(7) "Disenrollment" means the termination of coverage for a BHP enrollee.

(8) "Effective date of enrollment" means the first date, as established by BHP, on which an enrollee is entitled to receive covered services from the enrollee's respective managed health care system.

(9) "Dependent," as it applies to the subsidized or non-subsidized programs, means:

(a) The subscriber's lawful spouse, not legally separated, who resides with the subscriber; or

(b) The unmarried child of the subscriber or the subscriber's dependent spouse, whether by birth, adoption, legal guardianship, or placement pending adoption, who is:

(i) Younger than age nineteen, and who has not been relinquished for adoption by the subscriber or the subscriber's dependent spouse; or

(ii) Younger than age twenty-three, and a registered student at an accredited secondary school, college, university, technical college, or school of nursing, attending full time, other than during holidays, summer and scheduled breaks; or

(c) A person of any age who is incapable of self-support due to disability, and who is the unmarried child of the subscriber or the subscriber's dependent spouse, whether by birth, adoption, or legal guardianship; or

(d) An unmarried child younger than age nineteen who is residing with the subscriber under an informal guardianship agreement. For a child to be considered a dependent of the subscriber under this provision:

(i) The guardianship agreement must be signed by the child's parent;

(ii) The guardianship agreement must authorize the subscriber to obtain medical care for the child;

(iii) The subscriber must be providing at least fifty percent of the child's support; and

(iv) The child must be on the account for BHP coverage.

(10) "Eligible full-time employee" means an employee who meets all eligibility requirements in WAC 182-25-030 and who is regularly scheduled to work thirty or more hours per week for an employer. The term includes a self-employed individual (including a sole proprietor or a partner of a partnership, and may include an independent contractor) if the individual:

(a) Is regularly scheduled to work thirty hours or more per week; and

(b) Derives at least seventy-five percent of his or her income from a trade or business that is licensed to do business in Washington.

Persons covered under a health benefit plan pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1986 shall not be considered eligible employees for purposes of minimum participation requirements.

(11) "Eligible part-time employee" means an employee who meets all the criteria in subsection (10) of this section,

but who is regularly scheduled to work fewer than thirty hours per week for an employer.

(12) "Employee" means one who is in the employment of an employer, as defined by RCW 50.04.080.

(13) "Employer" means an enterprise licensed to do business in Washington state, as defined by RCW 50.04.080, with employees in addition to the employer, whose wages or salaries are paid by the employer.

(14) "Enrollee" means a person who meets all applicable eligibility requirements, who is enrolled in BHP, and for whom applicable premium payments have been made.

(15) "Family" means an individual or an individual and eligible spouse and dependents. For purposes of eligibility determination and enrollment in BHP, an individual cannot be a member of more than one family.

(16) "Financial sponsor" means a person, organization or other entity, approved by the administrator, that is responsible for payment of all or a designated portion of the monthly premiums on behalf of a subscriber and any dependents.

(17) "Gross family income" means total cash receipts, as defined in (a) of this subsection, before taxes, from all sources, for subscriber and dependents whether or not they are enrolled in BHP, with the exceptions noted in (b) of this subsection. An average of documented income received over a period of several months will be used for purposes of eligibility determination, unless documentation submitted confirms a change in circumstances so that an average would not be an accurate reflection of current income. A twelve-month average will be used when calculating gambling income, lump-sum payments, and income from capital gains. A twelve-month history of receipts and expenses will be required for calculating self-employment or rental income unless the applicant or enrollee has not owned the business for at least twelve months.

(a) Income includes:

(i) Wages, tips and salaries before any deductions;

(ii) Net receipts from nonfarm self-employment (receipts from a person's own business, professional enterprise, or partnership, after deductions for business expenses). In calculating net self-employment income, deductions will not be allowed for noncash-flow items such as depreciation, amortization, or business use of home, and a net loss from this calculation will not be used to offset other income sources;

(iii) Net receipts from farm self-employment (receipts from a farm which one operates as an owner, renter, or share-cropper, after deductions for farm operating expenses). In calculating net self-employment income, deductions will not be allowed for noncash-flow items such as depreciation, amortization, or business use of home, and a net loss from this calculation will not be used to offset other income sources;

(iv) Periodic payments from Social Security, railroad retirement, military pension or retirement pay, military disability pensions, military disability payments, government employee pensions, private pensions, unemployment compensation, and strike benefits from union funds;

(v) One-time insurance payments other than reimbursement for a loss, periodic insurance or annuity payments, and compensation for injury other than reimbursement for medical costs, including workers' compensation;

(vi) Public assistance, alimony, child support, and military family allotments;

(vii) Work study, assistantships, or training stipends;

(viii) Dividends and interest accessible to the enrollee without a penalty for early withdrawal;

(ix) Net rental income, net royalties, and net gambling or lottery winnings;

(x) Lump sum inheritances and periodic receipts from estates or trusts; and

(xi) Net income from capital gains.

(b) Income does not include the following types of money received:

(i) Any assets drawn down as withdrawals from a bank, the sale of property, a house or a car;

(ii) Tax refunds, gifts, loans;

(iii) Noncash receipts, such as the employer-paid or union-paid portion of health insurance or other employee fringe benefits, food or housing received in lieu of wages, the imputed value of rent from owner-occupied nonfarm or farm housing, goods or services received due to payments a trust makes to a third party, and such noncash benefit programs as Medicare, Medicaid, food stamps, school lunches, state supplementary payment income that is specifically dedicated to reimburse for services received, and housing assistance;

(iv) Income earned by dependent children with the exception of distributions from a corporation, partnership, or business;

(v) Income of a family member who resides in another household when such income is not available to the subscriber or dependents seeking enrollment in BHP;

(vi) College or university scholarships, grants, and fellowships;

(vii) Payments from the department of social and health services adoption support program authorized under RCW 26.33.320 and 74.13.100 through 74.13.145;

(viii) Documented child care expenses for the care of a dependent child of a subscriber may be deducted (at a rate set by the administrator and consistent with Internal Revenue Service requirements) when calculating gross family income. To qualify for this deduction:

(A) The subscriber and the spouse listed as a dependent on the account, if any, must be employed or attending school full-time during the time the child care expenses were paid; and

(B) Payment may not be paid to a parent or stepparent of the child or to a dependent child of the subscriber or his/her spouse.

(18) "Home care agency" means a private or public agency or organization that administers or provides home care services directly or through a contract arrangement to ill, disabled, or infirm persons in places of temporary or permanent residence, and is licensed by the department of social and health services (DSHS) as a home care agency. In order to qualify, the agency must be under contract with one of the following DSHS programs: Chore, Medicaid Personal Care, Community Options Program Entry System (COPES) or Respite Care (up to level three).

(19) "Institution" means a federal, state, county, city or other government correctional or detention facility or government-funded facility where health care historically has been

provided and funded through the budget of the operating agency, and includes, but is not limited to: Washington state department of corrections institutions; federal, county and municipal government jail and detention institutions; Washington state department of veterans affairs soldiers' and veterans' homes; department of social and health services state hospitals and facilities and juvenile rehabilitation institutions and group homes. An institution does not include: Educational institutions; government-funded acute health care or mental health facilities except as provided above; chemical dependency facilities; and nursing homes.

(20) "Institutionalized" means to be confined, voluntarily or involuntarily, by court order or health status, in an institution, as defined in subsection (19) of this section. This does not include persons on work release or who are residents of higher education institutions, acute health care facilities, alcohol and chemical dependency facilities, or nursing homes.

(21) "Insurance broker" or "agent" means a person who is currently licensed as a disability insurance broker or agent, according to the laws administered by the office of the insurance commissioner under chapter 48.17 RCW.

(22) "Managed health care system" (or "MHCS") means:

(a) Any health care organization (including health care providers, insurers, health care service contractors, health maintenance organizations, or any combination thereof) which has entered into a contract with the HCA to provide basic health care services; or

(b) A self-funded or self-insured method of providing insurance coverage to subsidized enrollees provided under RCW 41.05.140 and subject to the limitations under RCW 70.47.100(7).

(23) "Maternity benefits through medical assistance," also known as S-Medical, means the coordinated program between BHP and DSHS for eligible pregnant women. This program includes all Medicaid benefits, including maternity coverage. Eligible members must be at or below one hundred eighty-five percent of the federal poverty level. Eligibility for this program is determined by DSHS, based on Medicaid eligibility criteria.

(24) "Medicaid" means the Title XIX Medicaid program administered by the department of social and health services, and includes the medical care programs provided to the "categorically needy" and the "medically needy" as defined in chapter 388-503 WAC.

(25) "Medicare" means programs established by Title XVIII of Public Law 89-97, as amended, "Health Insurance for the Aged and Disabled."

(26) "Nonsubsidized enrollee" or "full premium enrollee" means an individual who enrolls in BHP, as the subscriber or dependent, and who pays or on whose behalf is paid the full costs for participation in BHP, without subsidy from the HCA.

(27) "Open enrollment" means a time period designated by the administrator during which enrollees may enroll additional dependents or apply to transfer their enrollment from one managed health care system to another.

(28) "Participating employee" means an employee of a participating employer or home care agency who has met all the eligibility requirements and has been enrolled for coverage under BHP.

(29) "Participating employer" means an employer who has been approved for enrollment in BHP as an employer group.

(30) "Preexisting condition" means any illness, injury or condition for which, in the six months immediately preceding an enrollee's effective date of enrollment in BHP:

(a) Treatment, consultation or a diagnostic test was recommended for or received by the enrollee; or

(b) Medication was prescribed or recommended for the enrollee; or

(c) Symptoms existed which would ordinarily cause a reasonably prudent individual to seek medical diagnosis, care or treatment.

(31) "Premium" means a periodic payment, determined under RCW 70.47.060(2), which an individual, an employer, a financial sponsor, or other entity makes to BHP for enrollment in BHP.

(32) "Program" means subsidized BHP, nonsubsidized BHP, BHP Plus, maternity benefits through medical assistance, or other such category of enrollment specified within this chapter.

(33) "Provider" or "health care provider" means a health care professional or institution duly licensed and accredited to provide covered services in the state of Washington.

(34) "Rate" means the amount, including administrative charges and any applicable premium and prepayment tax imposed under RCW 48.14.0201, negotiated by the administrator with and paid to a managed health care system, to provide BHP health care benefits to enrollees.

(35) "Schedule of benefits" means the basic health care services adopted and from time to time amended by the administrator, which an enrollee shall be entitled to receive from a managed health care system in exchange for payment of premium and applicable co-payments, as described in the member handbook.

(36) "Service area" means the geographic area served by a managed health care system as defined in its contract with HCA.

(37) "Subscriber" is a person who applies to BHP on his/her own behalf or on behalf of his/her dependents, if any, who is responsible for payment of premiums and to whom BHP sends notices and communications. The subscriber may be a BHP enrollee or the spouse, parent, or guardian of an enrolled dependent and may or may not be enrolled for coverage. Notices to a subscriber and, if applicable, a financial sponsor or employer shall be considered notice to the subscriber and his/her enrolled dependents.

(38) "Subsidized enrollee" or "reduced premium enrollee" means an individual who enrolls in BHP, either as the subscriber or an eligible dependent, whose current gross family income does not exceed twice the federal poverty level as adjusted for family size and determined annually by the federal Department of Health and Human Services, and who receives a premium subsidy from the HCA. Full-time students who have received a temporary visa to study in the United States are not eligible to enroll as subsidized enrollees. To the extent that state funds are specifically appropriated for this purpose, with a corresponding federal match, "subsidized enrollee" also means an individual who enrolls in BHP, either as the subscriber or an eligible dependent, whose current gross family income is more than two hundred per-

cent, but less than two hundred fifty-one percent, of the federal poverty level as adjusted for family size and determined annually by the federal Department of Health and Human Services, and who receives a premium subsidy from the HCA.

(39) "Subsidy" means the difference between the amount of periodic payment the HCA makes to a managed health care system on behalf of a subsidized enrollee, and the amount determined to be the subsidized enrollee's responsibility under RCW 70.47.060(2).

(40) "Washington state resident" or "resident," for purposes of this chapter, means a person who physically resides and maintains a residence in the state of Washington.

(a) To be considered a Washington resident, enrollees who are temporarily out of Washington state for any reason:

(i) May be required to demonstrate their intent to return to Washington state; and

(ii) May not be out of Washington state for more than three consecutive calendar months.

(b) Dependent children who meet the requirements of subsection (9)(b)(ii) of this section and are attending school out-of-state may be considered to be residents if they are out-of-state during the school year, provided their primary residence is in Washington state and they return to Washington state during breaks. Dependent children attending school out-of-state may also be required to provide proof that they pay out-of-state tuition, vote in Washington state and file their federal income taxes using a Washington state address.

(c) "Residence" may include, but is not limited to:

(i) A home the person owns or is purchasing or renting;

(ii) A shelter or other physical location where the person is staying in lieu of a home; or

(iii) Another person's home.

[Statutory Authority: RCW 70.47.050 and 2005 c 188. 05-17-078 (Order 05-03), § 182-25-010, filed 8/12/05, effective 9/12/05. Statutory Authority: RCW 70.47.050 and 2004 c 192. 04-23-012 (Order 04-03), § 182-25-010, filed 11/5/04, effective 1/1/05. Statutory Authority: RCW 70.47.050, 70.47.020(4) and 70.47.060 (5) and (9). 03-18-039 (Order 02-01), § 182-25-010, filed 8/27/03, effective 10/1/03. Statutory Authority: RCW 70.47.050, 70.47.020 (4) and (5), 70.47.060 (9) and (10), 74.08A.100 and 2002 c 371. 02-24-051 (Order 02-06), § 182-25-010, filed 12/3/02, effective 1/1/03. Statutory Authority: RCW 70.47.050. 01-09-001 (Order 00-08), § 182-25-010, filed 4/4/01, effective 5/5/01. Statutory Authority: RCW 70.47.050 and 70.47.020 as revised by E2SSB 6067. 01-01-134 (Order 00-04), § 182-25-010, filed 12/20/00, effective 1/20/01. Statutory Authority: RCW 70.47.050, 70.47.060 and 70.47.100. 99-24-005 (Order 99-06), § 182-25-010, filed 11/18/99, effective 12/19/99. Statutory Authority: RCW 70.47.050, 70.47.060(9) and SHB 2556. 98-15-018, § 182-25-010, filed 7/6/98, effective 8/6/98. Statutory Authority: RCW 70.47.050. 98-07-002, § 182-25-010, filed 3/5/98, effective 4/5/98; 97-15-003, § 182-25-010, filed 7/3/97, effective 8/3/97; 96-15-024, § 182-25-010, filed 7/9/96, effective 8/9/96.]

WAC 182-25-040 Enrollment in the plan. (1) Any individual applying for enrollment in BHP must submit a signed, completed BHP application for enrollment. Applications for enrollment of children under the age of eighteen must be signed by the child's parent or guardian, who shall also be held responsible for payment of premiums due on behalf of the child. If an applicant is accepted for enrollment, the applicant's signature acknowledges the applicant's obligation to pay the monthly premium in accordance with the terms and conditions identified in the member handbook. Applications for BHP Plus enrollment on behalf of children under the age of nineteen will be referred to the department of

social and health services for Medicaid eligibility determination.

(2) Each applicant for subsidized enrollment or BHP Plus must list all eligible dependents, whether or not the dependents will be enrolled, and must supply other information and documentation as required by BHP and, where applicable, DSHS medical assistance.

(a) Applicants for subsidized enrollment must provide documentation showing the amount and sources of their gross family income. Income documentation must include a copy of the applicant's most recently filed federal income tax form or verification of nonfiling status, and copies of pay stubs or other documents showing income for the most recent thirty days or complete calendar month as of the date of application. Applicants who were not required to file a federal income tax return may be required to provide other documentation showing year-to-date income. As described in WAC 182-25-010(17), BHP may use an average of documented income when determining eligibility.

(b) Applicants for subsidized or nonsubsidized enrollment must provide documentation of Washington state residence, displaying the applicant's name and current address, for example, a copy of a current utility bill or rent receipt. Other documentation may be accepted if the applicant does not have a physical residence, for example, a signed statement from a person or other entity who is providing temporary shelter.

(c) BHP may request additional information from applicants for purposes of establishing or verifying eligibility, premium responsibility or MHCS selection.

(d) Submission of incomplete or inaccurate information may delay or prevent an applicant's enrollment in BHP. Intentional submission of false information will result in disenrollment of the subscriber and all enrolled dependents.

(3) Each member may be enrolled in only one BHP account. Each family applying for enrollment must designate a MHCS from which the applicant and all enrolled dependents will receive covered services. All applicants from the same family who are covered under the same account must receive covered services from the same MHCS (with the exception of cases in which a subscriber who is paying for BHP coverage for his/her dependent who lives in a different service area). No applicant will be enrolled for whom designation of a MHCS has not been made as part of the application for enrollment. Procedures for the selection of MHCS are set forth in the BHP member handbook. Generally, enrollees may change from one MHCS to another only during open enrollment or if they are able to show good cause for the transfer, for example, when enrollees move to an area served by a different MHCS or where they would be billed a higher premium for their current MHCS.

(4) When a MHCS assists BHP applicants in the enrollment process, it must provide them with the toll-free number for BHP and information on all MHCS available within the applicant's county of residence and the estimated premiums for each available MHCS.

(5) If specific funding has been appropriated for that purpose, insurance brokers or agents who have met all statutory and regulatory requirements of the office of the insurance commissioner, are currently licensed through the office of the insurance commissioner, and who have completed BHP's

training program, will be paid a commission for assisting eligible applicants to enroll in BHP.

(a) Individual policy commission: Subject to availability of funds, and as a pilot program, BHP will pay a one-time fee to any currently licensed insurance broker or agent who sells BHP to an eligible individual applicant if that applicant has not been a BHP member within the previous five years.

(b) Group policy commission: Subject to availability of funds, and as a pilot program, fees paid for the sale of BHP group coverage to an eligible employer will be based on the number of employees in the group for the first and second months of the group's enrollment.

(c) Insurance brokers or agents must provide the prospective applicant with the BHP toll-free information number and inform them of BHP benefits, limitations, exclusions, waiting periods, co-payments, all MHCSs available to the applicant within his/her county of residence and the estimated premium for each of them.

(d) All statutes and regulations of the office of the insurance commissioner will apply to brokers or agents who sell BHP, except they will not be required to be appointed by the MHCS.

(e) BHP will not pay renewal commissions.

(6) Except as provided in WAC 182-25-030(7), applications for enrollment will be reviewed by BHP within thirty days of receipt and those applicants satisfying the eligibility criteria and who have provided all required information, documentation and premium payments will be notified of their effective date of enrollment.

(7)(a) Eligible applicants will be enrolled in BHP in the order in which their completed applications, including all required documentation, have been received by BHP, provided that:

(i) At least one MHCS is accepting new enrollment in the program for which the applicant is applying and from the geographic area where the applicant lives; and

(ii) The applicant also remits full payment of the first premium bill to BHP by the due date specified by BHP.

(b) In the event a waiting list is implemented, eligible applicants will be enrolled in accordance with WAC 182-25-030(6).

(8) An open enrollment period of at least twenty consecutive days will be held annually. During this open enrollment period, enrollees may apply to enroll additional family members or to transfer their enrollment to a different MHCS, provided the MHCS selected is accepting new enrollment for the enrollee's program in the geographic area where the enrollee lives.

(9) Not all family members are required to apply for enrollment in BHP; however, any family member for whom application for enrollment is not made at the same time that other family members apply, may not subsequently enroll as a family member until the next open enrollment period, unless the subscriber has experienced a "qualifying change in family status." "Qualifying changes in family status" include:

(a) The loss of other health care coverage, for a family member who has previously waived coverage, provided BHP receives the family member's application within thirty days of the loss of other coverage, along with proof of the family member's continuous medical coverage from the date the subscriber enrolled in BHP;

(b) Marriage or assuming custody or dependency of a child or adult dependent (other than newborn or newly adopted children), provided BHP receives the new family member's application within thirty days of the change in family status;

(c) Addition of an eligible newborn child or a child newly placed for adoption provided BHP receives the child's application for enrollment within sixty days of the date of birth or placement for adoption. These children may be enrolled effective from the date of birth or placement for adoption; or

(d) Addition of a family member who was not previously eligible for coverage, and who has become eligible.

(10) Subscribers must notify BHP of any changes that could affect their eligibility or subsidy or their dependents' eligibility or subsidy:

(a) Within thirty days of the end of the first month of receiving an increased income; or

(b) Within thirty days of a change other than an income change (for example, a change in family size or address).

(11) BHP will verify the continuing eligibility of subsidized enrollees through the recertification process at least once every twelve months. Upon request of BHP, subsidized enrollees must submit evidence satisfactory to BHP, proving their continued eligibility for enrollment and for the premium subsidy they are receiving.

(a) BHP will verify income of subsidized enrollees through comparison with other state and federal agency records or other third-party sources.

(b) If the enrollee's income on record with other agencies or third-party source differs from the income the enrollee has reported to BHP, or if questions arise concerning the documentation submitted, BHP will require updated documentation from the enrollee to prove continued eligibility for the subsidy they are receiving. At that time, BHP may also require updated documentation of residence to complete the recertification process.

(c) Subsidized enrollees who have been enrolled in BHP six months or more and have not provided updated income documentation for at least six months will be required to submit new income documentation if their wage or salary income cannot be compared to an independent source for verification.

(12) In addition to verification of income, subsidized and nonsubsidized enrollees must annually submit documentation satisfactory to BHP of the following:

(a) Washington state residence;

(b) Full-time student status for dependent students age nineteen through twenty-two; and

(c) Medicare ineligibility for enrollees age sixty-five or over.

(13) When determining eligibility for subsidized enrollment, noncitizens may be required to provide proof of immigration status, to verify whether they are here on a temporary visa to study in the United States.

(14) For good cause such as, but not limited to, when information received indicates a change in income or a source of income the enrollee has not reported, BHP may require enrollees to provide verification required in subsections (11) and (12) of this section more frequently, regardless of the length of time since their last recertification.

(15) Enrollees who fail to comply with a recertification request will be disenrolled, according to the provisions of WAC 182-25-090 (2)(e).

(16) If, as a result of recertification, BHP determines that an enrollee has not reported income or income changes accurately, the enrollee will be subject to the provisions of WAC 182-25-085.

[Statutory Authority: RCW 70.47.050 and 2005 c 188. 05-17-078 (Order 05-03), § 182-25-040, filed 8/12/05, effective 9/12/05. Statutory Authority: RCW 70.47.050 and 2004 c 192. 04-23-012 (Order 04-03), § 182-25-040, filed 11/5/04, effective 1/1/05. Statutory Authority: RCW 70.47.050. 04-15-109 (Order 04-05), § 182-25-040, filed 7/20/04, effective 8/20/04. Statutory Authority: RCW 70.47.050, 70.47.060(9), and 2002 c 371 § 212(5). 02-19-054 (Order 01-07), § 182-25-040, filed 9/12/02, effective 10/13/02. Statutory Authority: RCW 70.47.050, 70.47.060 and 70.47.100. 99-24-005 (Order 99-06), § 182-25-040, filed 11/18/99, effective 12/19/99. Statutory Authority: RCW 70.47.050 and 70.47.060. 99-16-022 (Order 99-02), § 182-25-040, filed 7/26/99, effective 8/26/99. Statutory Authority: RCW 70.47.050. 98-07-002, § 182-25-040, filed 3/5/98, effective 4/5/98; 97-15-003, § 182-25-040, filed 7/3/97, effective 8/3/97; 96-15-024, § 182-25-040, filed 7/9/96, effective 8/9/96.]

Title 192 WAC EMPLOYMENT SECURITY DEPARTMENT

Chapters

192-35	Improving employment opportunities for people with disabilities through state use contracts.
192-110	Applying for unemployment benefits.
192-150	Job separations.
192-170	Availability for work.
192-180	Job search requirements.
192-300	Registering for unemployment insurance taxes.
192-310	Reporting of wages and taxes due.
192-320	Experience rating and benefit charging.

DISPOSITION OF CHAPTERS FORMERLY CODIFIED IN THIS TITLE

Chapter 192-32 TIMBER RETRAINING BENEFITS

192-32-010	Definitions. [Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010 and 50.22.090. 98-05-042, § 192-32-010, filed 2/11/98, effective 3/14/98. Statutory Authority: RCW 50.12.010, 50.12.040 and 50.20.010. 95-09-085, § 192-32-010, filed 4/19/95, effective 5/20/95. Statutory Authority: RCW 50.12.010, 50.12.040 and 1991 c 315 § 4. 91-20-012, § 192-32-010, filed 9/20/91, effective 10/21/91.] Repealed by 05-13-155, filed 6/21/05, effective 7/22/05. Statutory Authority: RCW 50.12.010, 50.12.040.
192-32-035	Residence in rural natural resources impact area at time of last separation from employment. [Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010 and 50.22.090. 98-05-042, § 192-32-035, filed 2/11/98, effective 3/14/98. Statutory Authority: RCW 50.12.010, 50.12.040 and 1991 c 315 § 4. 91-20-012, § 192-32-035, filed 9/20/91, effective 10/21/91.] Repealed by 05-13-155, filed 6/21/05, effective 7/22/05. Statutory Authority: RCW 50.12.010, 50.12.040.
192-32-050	Benefits payable only to workers enrolled in approved training. [Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010 and 50.22.090. 98-05-042, § 192-32-050, filed 2/11/98, effective 3/14/98. Statutory

	Authority: RCW 50.12.010, 50.12.040 and 1991 c 315 § 4. 91-20-012, § 192-32-050, filed 9/20/91, effective 10/21/91.] Repealed by 05-13-155, filed 6/21/05, effective 7/22/05. Statutory Authority: RCW 50.12.010, 50.12.040.
192-32-085	Full-time training. [Statutory Authority: 50.12.010, 50.12.040, 50.20.010 and 50.22.090. 98-05-042, § 192-32-085, filed 2/11/98, effective 3/14/98. Statutory Authority: RCW 50.12.010, 50.12.040 and 1991 c 315 § 4. 91-20-012, § 192-32-085, filed 9/20/91, effective 10/21/91.] Repealed by 05-13-155, filed 6/21/05, effective 7/22/05. Statutory Authority: RCW 50.12.010, 50.12.040.
192-32-095	Certification of satisfactory progress. [Statutory Authority: 50.12.010, 50.12.040, 50.20.010 and 50.22.090. 98-05-042, § 192-32-095, filed 2/11/98, effective 3/14/98. Statutory Authority: RCW 50.12.010, 50.12.040 and 1991 c 315 § 4. 91-20-012, § 192-32-095, filed 9/20/91, effective 10/21/91.] Repealed by 05-13-155, filed 6/21/05, effective 7/22/05. Statutory Authority: RCW 50.12.010, 50.12.040.
192-32-100	Modifying a training plan. [Statutory Authority: 50.12.010, 50.12.040, 50.20.010 and 50.22.090. 98-05-042, § 192-32-100, filed 2/11/98, effective 3/14/98.] Repealed by 05-13-155, filed 6/21/05, effective 7/22/05. Statutory Authority: RCW 50.12.010, 50.12.040.
192-32-115	Out-of-state training. [Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010 and 50.22.090. 98-05-042, § 192-32-115, filed 2/11/98, effective 3/14/98. Statutory Authority: RCW 50.12.010, 50.12.040 and 1991 c 315 § 4. 91-20-012, § 192-32-115, filed 9/20/91, effective 10/21/91.] Repealed by 05-13-155, filed 6/21/05, effective 7/22/05. Statutory Authority: RCW 50.12.010, 50.12.040.
192-32-130	Five weeks for work search following training. [Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010 and 50.22.090. 98-05-042, § 192-32-130, filed 2/11/98, effective 3/14/98.] Repealed by 05-13-155, filed 6/21/05, effective 7/22/05. Statutory Authority: RCW 50.12.010, 50.12.040.
192-32-135	Thirteen weeks for remedial education. [Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010 and 50.22.090. 98-05-042, § 192-32-135, filed 2/11/98, effective 3/14/98.] Repealed by 05-13-155, filed 6/21/05, effective 7/22/05. Statutory Authority: RCW 50.12.010, 50.12.040.

Chapter 192-35 WAC

IMPROVING EMPLOYMENT OPPORTUNITIES FOR PEOPLE WITH DISABILITIES THROUGH STATE USE CONTRACTS

WAC

192-35-010	Definitions.
192-35-020	The state use advisory committee.
192-35-030	Meetings.
192-35-040	Application for listing as a vendor in good standing.
192-35-050	Application fees.
192-35-060	Period of eligibility.
192-35-070	Denials and appeals.
192-35-080	Application of brief adjudicative proceedings.
192-35-090	Conduct of brief adjudicative proceedings.
192-35-100	Preliminary record in brief adjudicative proceedings.
192-35-110	Appeal of the brief adjudicative proceedings.
192-35-120	Objections to brief adjudicative proceedings and conversion to formal adjudicative hearings.

WAC 192-35-010 Definitions. "Application base" means either the first fifteen applications for vendor in good standing received, or all applications for vendor in good standing received during the first twelve months of the program, whichever is greater at the time an application is being considered.

"Integrated setting" means a setting commonly found in the community (such as a store, office or school) where the individual with a disability comes into contact with nondisabled people who are not providing vocational rehabilitation

services or other specialized services to that individual; or a setting commonly found in the community where the individual with a disability comes into contact with nondisabled people as he/she does his/her work. The amount of contact the individual with a disability has with nondisabled people is the same that a nondisabled person in the same type of job would experience.

"Transitioned to a less restrictive employment setting" means any change to an individual's job or work setting, or working conditions that increases that individual's workplace integration, independence from special services or participation in unsubsidized work. Some examples include moving from sheltered to supported employment; or from nonintegrated to integrated employment; or from working for a community rehabilitation program to working for a community employer.

[Statutory Authority: RCW 50.12.040. 05-02-094, § 192-35-010, filed 1/5/05, effective 2/5/05.]

WAC 192-35-020 The state use advisory committee.

The state use advisory committee hereinafter referred to as the SUAC, is established within the governor's committee on disability issues and employment (GCDE). The SUAC shall have the following composition:

(1) Three members chosen by GCDE from among those current or former clients of a community rehabilitation program who have nominated themselves, at least one of whom must be a person with a developmental disability;

(2) One member chosen by GCDE from among those guardians, parents, or other relatives of a current client or employee of a community rehabilitation program who have nominated themselves;

(3) One member chosen by GCDE from among those who have been nominated by a community rehabilitation program;

(4) One member chosen by GCDE from among those owners of a business owned and operated by persons with disabilities who have nominated themselves;

(5) One member who is designated by the developmental disabilities council;

(6) One member who is a member of and selected by GCDE;

(7) One member who is designated by the secretary of the department of social and health services; and

(8) One member who is designated by the director of the department of services for the blind.

[Statutory Authority: RCW 50.12.040. 05-02-094, § 192-35-020, filed 1/5/05, effective 2/5/05.]

WAC 192-35-030 Meetings. The SUAC shall hold its regular public meeting annually in December. Additional public meetings may be held at such times and places as the board may deem necessary. Notice of all public meetings will be issued as required by the Open Public Meetings Act, chapter 42.30 RCW.

Executive sessions may be held by the board in conjunction with all public meetings, and at such other times as the board shall deem necessary. Executive sessions shall deal only with matters authorized by RCW 42.30.110.

[Statutory Authority: RCW 50.12.040. 05-02-094, § 192-35-030, filed 1/5/05, effective 2/5/05.]

WAC 192-35-040 Application for listing as a vendor in good standing. The application for listing as a vendor in good standing must be submitted on forms approved by the SUAC and shall be accompanied by additional documentation as follows:

(1) Applications from community rehabilitation programs must be accompanied by:

(a) A document issued by the department of social and health services recognizing the applicant as eligible to do business as a community rehabilitation program; and

(b) A document issued by the secretary of state establishing that the applicant is registered as a nonprofit corporation.

(2) Applications by business owned and operated by persons with disabilities must be accompanied by documentation:

(a) Issued by the department of social and health services establishing that the individual exercising ownership and control has been determined to have a developmental disability as defined in RCW 71A.10.020; or

(b) Issued by an agency established under Title I of the Federal Vocational Rehabilitation Act establishing that the individual exercising ownership and control has been determined to be or have been eligible for vocational rehabilitation services; or

(c) Issued by the United States Social Security Administration establishing that the individual exercising ownership and control has been determined to be or have been eligible for Social Security Disability Insurance or Supplemental Security Income; or

(d) Issued by the United States Department of Veterans Affairs establishing that the individual exercising ownership and control has been determined to be or have been eligible for vocational rehabilitation services due to a service connected disability under 38 U.S.C. Sec. 3100 et seq.

(3) Applications must be accompanied by documentation that objectively demonstrates that the applicant has met or made progress over the previous twelve months toward meeting a minimum of six of the following criteria:

(a) The number of people with disabilities in the entity's total work force who are working in integrated settings. To demonstrate progress for this criterion an applicant's documentation must show that the number of people with disabilities employed by it, and working in an integrated setting, during the quarter immediately preceding the date of application is greater than the number of people with disabilities employed by it, and working in an integrated setting for the same quarter in the previous year. To demonstrate that it has met this criterion, an applicant's documentation must show that the number of people with disabilities employed by it, and working in an integrated setting during the quarter immediately preceding the date of application is at least one standard deviation higher than the norm for this criterion derived from the application base.

(b) The percentage of the people with disabilities in the entity's total work force who are working in integrated settings. To demonstrate progress for this criterion an applicant's documentation must show that the percent of those people with disabilities employed by it and working in an integrated setting, during the quarter immediately preceding the date of application is greater than the percentage of people with disabilities employed by it, and working in an inte-

grated setting for the same quarter in the previous year. To demonstrate that it has met this criterion, an applicant's documentation must show that the percentage of people with disabilities employed by it, and working in an integrated setting, during the quarter immediately preceding the date of application is at least one standard deviation higher than the norm for this criterion derived from the application base.

(c) The number of people with disabilities in the entity's total work force who are working in individual supported employment settings. To demonstrate progress for this criterion an applicant's documentation must show that the number of people with disabilities employed by it, and working in individual supported employment settings, during the quarter immediately preceding the date of application is greater than the number of people with disabilities employed by it, and working in individual supported employment settings for the same quarter for the previous year. To demonstrate that it has met this criterion, an applicant's documentation must show that the number of people with disabilities employed by it, and working in individual employment settings for the quarter immediately preceding the date of application is at least one standard deviation higher than the norm for this criterion derived from the application base.

(d) The percentage of the people with disabilities in the entity's total work force who are working in individual supported employment settings. To demonstrate progress for this criterion an applicant's documentation must show that the percent of people with disabilities among all individuals employed by it, and working in an individual supported employment setting, during the quarter immediately preceding the date of application is greater than the percentage of people with disabilities employed by it, and working in an integrated setting for the same quarter of the previous year. To demonstrate that it has met this criterion, an applicant's documentation must show that the percentage of people with disabilities employed by it, and working in an individual supported employment setting, during the quarter immediately preceding the date of application is at least one standard deviation higher than the norm for this criterion derived from the application base.

(e) The number of people with disabilities in the entity's total work force who, during the last twelve months, have transitioned to less restrictive employment settings either within the entity or with other community employers. To demonstrate progress for this criterion an applicant's documentation must show that the number of people with disabilities who had been employed by it at some point during the twelve months immediately preceding the time of application and had transitioned to less restrictive employment settings during those twelve months either within the entity or with other community employers was greater than the number of such employees who had made such a transition during the prior twelve months. To demonstrate that it has met this criterion, an applicant's documentation must show that the number of people who had been employed by it at some point during the twelve months immediately preceding the time of application and had transitioned to less restrictive employment settings during those twelve months either within the entity or with other community employers at the time of application is at least one standard deviation higher than the norm for this criterion derived from the application base.

(f) The number of people with disabilities in the entity's total work force who are earning at least the state minimum wage. To demonstrate progress for this criterion an applicant's documentation must show that the number of people with disabilities employed by it, who were paid at least the state minimum wage for all hours worked, during the quarter immediately preceding the date of application is greater than the number of people with disabilities employed by it, and paid at least the state minimum wage for all hours worked for the same quarter for the previous year. To demonstrate that it has met this criterion, an applicant's documentation must show that the number of people with disabilities employed by it, and paid at least the state minimum wage for all hours worked for the same quarter of the previous year is at least one standard deviation higher than the norm for this criterion derived from the application base.

(g) The percentage of the people with disabilities in the entity's total work force who are earning at least the state minimum wage. To demonstrate progress for this criterion an applicant's documentation must show that the percent of people with disabilities among all people with disabilities employed by it, who were paid at least the state minimum wage for all hours worked during the quarter immediately preceding the date of application is greater than the percentage of people with disabilities employed by it, who were paid at least state minimum wage for all hours worked for the same quarter for the previous year. To demonstrate that it has met this criterion, an applicant's documentation must show that the percentage of people with disabilities employed by it, who were paid at least state minimum wage for all hours worked for the quarter immediately preceding the date of application is at least one standard deviation higher than the norm for this criterion derived from the application base.

(h) The number of people with disabilities serving in supervisory capacities within the entity. To demonstrate progress for this criterion an applicant's documentation must show that the number of people with disabilities employed by it in positions in which they supervised the work of other employees during the quarter immediately preceding the date of application is greater than the number of people with disabilities employed by it in such positions during the same quarter for the previous year. To demonstrate that it has met this criterion, an applicant's documentation must show that the number of people with disabilities employed by it in positions in which they supervised the work of other employees during the quarter immediately preceding the date of application is at least one standard deviation higher than the norm for this criterion derived from the application base.

(i) The percentage of supervisory positions within the entity that are occupied by people with disabilities. To demonstrate progress for this criterion an applicant's documentation must show that the percent of people with disabilities among all individuals employed by it in positions in which they supervise the work of other employees during the quarter immediately preceding the date of application is greater than the percentage of people with disabilities employed by it in such positions for the same quarter of the previous year. To demonstrate that it has met this criterion, an applicant's documentation must show that the percentage of people with disabilities employed by it in supervisory positions at the time of

application is at least one standard deviation higher than the norm for this criterion derived from the application base.

(j) The number of people with disabilities serving in an ownership capacity or on the governing board of the entity. To demonstrate progress for this criterion an applicant's documentation must show that the number of people with disabilities who exercise ownership and participate in the day to day management of the entity, or who serve in elected or appointed positions on a board with the authority to hire and fire the executive director of the entity during the quarter immediately preceding the date of application is greater than the number of people with disabilities in such positions during the same quarter for the previous year. To demonstrate that it has met this criterion, an applicant's documentation must show that the number of people with disabilities in such positions during the quarter immediately preceding the date of application is at least one standard deviation higher than the norm for this criterion derived from the application base.

(k) The ratio of the total amount paid by the entity in wages, salaries, and related employment benefits to people with disabilities as compared to the total amount paid by the entity in wages, salaries, and related employment benefits to persons without disabilities during the previous year. To demonstrate progress for this criterion an applicant's documentation must show that the total amount paid by it in wages, salaries, and related employment benefits to people with disabilities during the twelve months immediately preceding the date of application had increased in proportion to the total amount it paid in wages, salaries, and related employment benefits to people who do not have a disability when compared to the ratio of those two figures from the previous year. To demonstrate that it has met this criterion, an applicant's documentation must show that the ratio of the total amount paid by the entity in wages, salaries, and related employment benefits to people with disabilities as compared to the total amount paid by the entity in wages, salaries, and related employment benefits to persons without disabilities for the twelve months immediately preceding the date of application is at least one standard deviation higher than the norm for this criterion derived from the application base.

(l) The percentage of people with disabilities in the entity's total work force for whom the entity has developed a reasonable, achievable, and written career plan. To demonstrate progress for this criterion an applicant's documentation must show that the percent of people with disabilities employed by it, for whom it had developed reasonable, achievable, written career plans, at the time of application was greater than the percentage of people with disabilities employed by it for whom it had developed reasonable, achievable, written career plans one year prior to the time of application. To demonstrate that it has met this criterion, an applicant's documentation must show that the percentage of people with disabilities employed by it for whom it had developed reasonable, achievable, written career plans at the time of application was at least one standard deviation higher than the norm for this criterion derived from the applications submitted that program year.

(4) In the event that the SUAC preliminarily determines that the documentation provided in an application is insufficient to demonstrate objectively that the applicant has made progress in or met at least six of the relevant eligibility crite-

ria under this chapter, the SUAC will communicate that determination to the applicant in writing. The notification will clearly identify the specific criteria for which the SUAC determined the applicant's documentation to be insufficient. The SUAC will hold the application open for up to six months from the date of the notification during which time the applicant may submit additional documentation addressing the identified deficiencies.

(5) Applicants must also provide such documentation as may be required by the department of general administration to establish:

(a) That the applicant has not been in material breach of any quality or performance provision of any contract for the purchase of goods or services during the past thirty-six months; and

(b) Those goods and services for which the applicant is seeking to be listed as a vendor in good standing.

(6) Applicants must also provide such additional information, or documentation as may be required by the office of minority and women's business enterprises for the purpose of determining ownership and exercise of control of a business.

[Statutory Authority: RCW 50.12.040. 05-02-094, § 192-35-040, filed 1/5/05, effective 2/5/05.]

WAC 192-35-050 Application fees. Applications must be accompanied by the annual application fee of five hundred dollars. The application fee is nonrefundable.

[Statutory Authority: RCW 50.12.040. 05-02-094, § 192-35-050, filed 1/5/05, effective 2/5/05.]

WAC 192-35-060 Period of eligibility. Applicants will be listed as vendors in good standing for a period of one year beginning on the date of final determination of eligibility to be so listed: Unless, prior to the end of that period, the applicant requests in writing to be removed from that listing; or is found to be in material breach of any quality or performance provision of any contract for the purchase of goods or services. Applications for continued listing or relisting for subsequent periods of eligibility are subject to the same documentation requirements, fees and procedures as initial applications.

[Statutory Authority: RCW 50.12.040. 05-02-094, § 192-35-060, filed 1/5/05, effective 2/5/05.]

WAC 192-35-070 Denials and appeals. The governor's committee on disability issues and employment will provide written notice when it has determined that an applicant failed to demonstrate that it has met the eligibility criteria for a vendor in good standing. The written notice shall include the basis for that determination; a notification of the applicant's right to appeal; and the address to which an appeal may be submitted. Applicants shall have thirty working days from the date of the notice to file an appeal. All appeals must be in writing.

[Statutory Authority: RCW 50.12.040. 05-02-094, § 192-35-070, filed 1/5/05, effective 2/5/05.]

WAC 192-35-080 Application of brief adjudicative proceedings. The commissioner adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative

proceedings conducted by request pursuant to subsection (1) of this section or at the discretion of the commissioner pursuant to RCW 34.05.482.

(1) If an adjudicative proceeding is requested, a brief adjudicative proceeding will be conducted where the governor's committee on disability issues and employment accepts the recommendation of the state use advisory committee and the matter involves a determination of one or more of the following issues:

(a) Whether an applicant has provided clear documentation that it qualifies under the criteria established by RCW 43.19.525 (1)(a) through (d); or

(b) Whether an applicant has provided clear documentation that it qualifies under the criteria established by RCW 43.19.525 (2)(a) and (b); or

(c) Whether an applicant has provided clear documentation that it qualifies under the criteria established by RCW 50.40.065 (3)(a) through (l).

(2) Brief adjudicative proceedings under subsection (1) of this section will be limited to consideration of the following issues:

(a) In proceedings under subsections (1)(a) and (b) of this section, the sole issue to be considered at the hearing is whether the documentation submitted by an applicant clearly establishes that the applicant has been determined to meet the applicable eligibility criterion or criteria under RCW 43.19.525 (1) or (2) by the agency or agencies authorized to make that determination;

(b) In proceedings under subsection (1)(c) of this section, the sole issue to be considered at the hearing is whether the documentation submitted by the applicant clearly demonstrates that the applicant has either met or made progress over the previous twelve months toward meeting a minimum of six of the criteria established in RCW 50.40.065.

(3) Brief adjudicative proceedings may not be used to appeal a decision by the governor's committee on disability issues and employment to reject a recommendation of the state use advisory committee, based on a finding of misfeasance or malfeasance.

[Statutory Authority: RCW 50.12.040. 05-02-094, § 192-35-080, filed 1/5/05, effective 2/5/05.]

WAC 192-35-090 Conduct of brief adjudicative proceedings. (1) Brief adjudicative proceedings shall be conducted by a presiding officer appointed by the commissioner or designee in accordance with RCW 34.05.485. The presiding officer for brief adjudicative proceedings shall have agency expertise in the subject matter but must not have personally participated in the decision to issue the initiating document.

(2) The parties or their representatives may present written documentation. The presiding officer for brief adjudicative proceedings shall designate the date by which written documents must be submitted by the parties.

(3) The presiding officer for brief adjudicative proceedings may, at his or her discretion, entertain oral argument from the parties or their representatives.

(4) No witnesses may appear to testify.

(5) In addition to the record, the presiding officer for brief adjudicative proceedings may employ agency expertise as a basis for decision.

(6) The presiding officer for brief adjudicative proceedings will not issue an oral order. Within ten working days of the final date for submission of materials or oral argument, if any, the presiding officer for brief adjudicative proceedings will enter an initial written order.

[Statutory Authority: RCW 50.12.040. 05-02-094, § 192-35-090, filed 1/5/05, effective 2/5/05.]

WAC 192-35-100 Preliminary record in brief adjudicative proceedings. The preliminary record with respect to an application must consist of:

- (1) The application and all associated documents; and
- (2) All documents relied upon by the state use advisory committee in proposing to deny the application; and
- (3) All correspondence between the applicant and the state use advisory committee regarding the application.

[Statutory Authority: RCW 50.12.040. 05-02-094, § 192-35-100, filed 1/5/05, effective 2/5/05.]

WAC 192-35-110 Appeal of the brief adjudicative proceedings. (1) Within thirty working days following the issuance of an initial written order, any party, including the department, may file a written appeal of that order with the deputy commissioner.

(2) The deputy commissioner will review the record of the brief adjudicative proceedings under appeal and issue the final written order, within thirty working days of the receipt of the appeal.

(3) The final written order, issued by the deputy commissioner, shall be the department's final decision on all matters subject to these brief adjudicative proceedings.

[Statutory Authority: RCW 50.12.040. 05-02-094, § 192-35-110, filed 1/5/05, effective 2/5/05.]

WAC 192-35-120 Objections to brief adjudicative proceedings and conversion to formal adjudicative hearings. (1) At least five working days before the scheduled brief adjudicative proceeding, any party, including the department, may file a written objection to resolution of a matter by a brief adjudicative proceeding and may request that a matter be converted to a formal adjudicative hearing. Upon receiving a timely written objection, the presiding officer shall determine whether the matter should be converted. Regardless of whether any party files a timely objection, the presiding officer may convert any brief adjudicative proceeding to a formal adjudicative hearing whenever it appears that a brief adjudicative proceeding is insufficient to determine the issues pending before the agency.

(2) In determining whether to convert a proceeding, the presiding officer may consider the following factors:

- (a) Whether witness testimony will aid the presiding officer in resolving contested issues of fact;
- (b) Whether the legal or factual issues are sufficiently complex to warrant a formal adjudicative proceeding, including whether there are multiple issues of fact or law;
- (c) Whether a brief adjudicative proceeding will establish an adequate record for further agency or judicial review;
- (d) Whether the legal issues involved in the proceeding present questions of legal significance or are being raised for the first time before the agency;

(e) Whether conversion of the proceeding will cause unnecessary delay in resolving the issues; and

(f) Any other factors that the presiding officer deems relevant in reaching a determination.

(3) The written order of the formal adjudicative hearing shall be the department's final decision.

[Statutory Authority: RCW 50.12.040. 05-02-094, § 192-35-120, filed 1/5/05, effective 2/5/05.]

Chapter 192-110 WAC

APPLYING FOR UNEMPLOYMENT BENEFITS

WAC

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|-------------|---|
| 192-110-015 | Applications by standby workers—RCW 50.20.010. |
| 192-110-017 | When can a partially unemployed worker apply for benefits?—RCW 50.04.310. |

WAC 192-110-015 Applications by standby workers—RCW 50.20.010. (1) **What is "standby?"** "Standby" means you are temporarily unemployed because of a lack of work but you expect to return to work with your regular employer. You do not have to register for work or look for other work while you are on standby. You must be available for all hours of work offered by your regular employer.

(2) **How long can I be on standby?**

- (a) You can ask to be on standby for up to four weeks.
- (b) We will ask your employer to verify that you are on standby and your expected return to work date:
 - (i) If your employer does not reply, you can be on standby for up to four weeks;
 - (ii) If your employer confirms you are on standby, you can be on standby for up to four weeks or until the return to work date given by your employer, whichever is earlier;
 - (iii) If your employer replies that you are not on standby or do not have a return to work date within eight weeks, we will require you to immediately register for work and to look for work.

(c) Your regular employer may ask to extend your standby status for more than four, but no more than eight, weeks (except as provided in (2)(d) below). This request must be approved by the department. We will consider the following before deciding whether to approve standby for more than four weeks:

- (i) How long you have been out of work;
- (ii) Whether other suitable work is available;
- (iii) The impact on you and your employer if you accept other work; and
- (iv) Other factors that apply to your situation.

(d) At his or her discretion, the commissioner may grant standby for more than eight weeks in a benefit year. The employer must apply in writing and show there are conditions that apply to the business that are so unique or unusual compared to similar businesses that having their employees on standby for more than eight weeks is necessary.

(e) We can approve standby if you have obtained a bona fide job with a new employer that has a definite start date within four weeks. The job must be in employment covered by Title 50 RCW or the comparable laws of another state or the federal government.

(3) Are there conditions apply to a request for standby?

(a) You must have a definite date when you will return to work for your regular employer;

(b) We will not approve standby if you only have prospects of future work with the employer, a promise of more work at some unspecified date, or when the return to work date depends on conditions beyond the employer's control, such as weather;

(c) Except for claimants who qualify as part-time eligible workers under RCW 50.20.119, we will not approve standby if you regularly work fewer than forty hours each week for the employer; and

(d) Except as provided in subsection (2)(d), we will not approve standby for more than eight weeks in any benefit year. Any week(s) that you do not qualify for benefits because of your earnings will not be considered as part of the eight weeks. After eight consecutive weeks of unemployment, we will no longer consider you attached to that employer.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. 05-19-018, § 192-110-015, filed 9/9/05, effective 10/10/05. Statutory Authority: RCW 50.20.010 and 50.12.040. 99-08-073, § 192-110-015, filed 4/5/99, effective 5/6/99.]

WAC 192-110-017 When can a partially unemployed worker apply for benefits?—RCW 50.04.310. If you are a partially unemployed worker as defined in WAC 192-180-013, you may apply for unemployment benefits up to five weeks after your hours are reduced without the application being considered late.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. 05-19-018, § 192-110-017, filed 9/9/05, effective 10/10/05.]

Chapter 192-150 WAC JOB SEPARATIONS

WAC

192-150-112	Definitions—Domestic violence and stalking—RCW 50.20.050 (2)(b)(iv).
192-150-113	Domestic violence or stalking—RCW 50.20.050 (2)(b)(iv).

WAC 192-150-112 Definitions—Domestic violence and stalking—RCW 50.20.050 (2)(b)(iv). To constitute good cause for leaving work, your job separation must have been necessary to protect yourself or a member of your immediate family from domestic violence or stalking.

(1) **Immediate family** is defined in WAC 192-150-055 and means your spouse, children (including your unborn children), stepchildren, foster children, or parents of either spouse, whether living with you or not, and other relatives who temporarily or permanently reside in your household. In addition, for purposes of this section only, the term shall also include your siblings.

(2)(a) **Domestic violence** is defined in RCW 26.50.010. It includes the following acts committed between family or household members:

- (i) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault;
- (ii) Sexual assault; or
- (iii) Stalking.

(b) The perpetrator of domestic violence must be a family or household member, which means:

- (i) Spouses and former spouses,
 - (ii) Persons who have a child in common regardless of whether they have been married or have lived together at any time,
 - (iii) Adult persons related by blood or marriage,
 - (iv) Adult persons who are presently residing together or who have resided together in the past,
 - (v) Persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship,
 - (vi) Persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and
 - (vii) Persons who have a biological or legal parent-child relationship, including stepparents, stepchildren, grandparents, and grandchildren.
- (c) "Dating relationship" means a social relationship of a romantic nature.

(3) **Stalking** is defined by RCW 9A.46.110. It means:

- (a) Intentionally and repeatedly harassing or following another person; and
- (b) Placing the person being harassed or followed in fear of injury to self or property, or to another person or the property of another person; and
- (c) Intending to frighten, intimidate, or harass the other person; or
- (d) Knowing or having reason to know that the person is afraid, intimidated, or harassed even if the stalker did not intend to place the person in fear or intimidate or harass the person.

(i) "Harass" means a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, harasses, or is detrimental to such person, and which serves no legitimate or lawful purpose.

(ii) "Repeatedly" means on two or more separate occasions.

(iii) "Follows" means deliberately maintaining visual or physical proximity to a specific person over a period of time. A finding that the alleged stalker repeatedly and deliberately appears at the person's home, school, place of employment, business, or any other location to maintain visual or physical proximity to the person is sufficient to find that the alleged stalker follows the person. It is not necessary to establish that the alleged stalker follows the person while in transit from one location to another.

(iv) "Contact" includes, in addition to any other form of contact or communication, the sending of an electronic communication to the person.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, and 50.20.010. 05-13-156, § 192-150-112, filed 6/21/05, effective 7/22/05.]

WAC 192-150-113 Domestic violence or stalking—RCW 50.20.050 (2)(b)(iv). (1) As a condition of eligibility for benefits, you are not required to exhaust reasonable alternatives prior to leaving work.

(2) The amount of notice you provide to your employer will not be a factor in evaluating whether you had good cause to leave work under this section. You will not be penalized for:

(a) Failing to provide notice to your employer prior to leaving work;

(b) Providing several weeks advance notice because you are making preparations to leave the situation;

(c) Not disclosing the domestic violence or stalking to your employer;

(d) Enduring domestic violence or stalking for an extended period of time before the job separation; or

(e) Leaving work when there has not been a recent act of domestic violence or stalking, provided you had a reasonable fear of future domestic violence or stalking.

(3) The following factors will be considered in evaluating whether you had good cause to leave work under this section:

(a) Domestic violence or stalking is the primary reason you left work, even if you gave a different reason for separation to your employer;

(b) Your separation was necessary which, for purposes of this section, means you had a good faith belief that you needed to leave work based upon:

(i) Your fear of domestic violence or stalking;

(ii) Avoiding domestic violence or stalking; or

(iii) The consequences of domestic violence or stalking, including but not limited to legal proceedings, health care, counseling, child custody, or child protection matters.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, and 50.20.010. 05-13-156, § 192-150-113, filed 6/21/05, effective 7/22/05.]

Chapter 192-170 WAC AVAILABILITY FOR WORK

WAC

192-170-060	Suitable work factors—Domestic violence or stalking—RCW 50.20.050 (2)(b)(iv).
192-170-070	What are the availability requirements for part-time eligible workers?—RCW 50.20.119.

WAC 192-170-060 Suitable work factors—Domestic violence or stalking—RCW 50.20.050 (2)(b)(iv). When the department decides you left work for good cause due to domestic violence or stalking, you are required to be available for suitable work to receive benefits. Suitable work is work that is in keeping with your prior experience, employment or training. Suitability of work must also include consideration of your need to address the physical, psychological, legal and other effects of domestic violence or stalking. A job is not considered suitable when it would require you to be available on a day or at a specific time that conflicts with your need to address the effects of the domestic violence or stalking.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, and 50.20.010. 05-13-156, § 192-170-060, filed 6/21/05, effective 7/22/05.]

WAC 192-170-070 What are the availability requirements for part-time eligible workers?—RCW 50.20.119.

(1) If you are a part-time eligible worker as defined in RCW 50.20.119, you may limit your availability for work to 17 or fewer hours per week. You may refuse any job of 18 or more hours per week.

(2) You must be available for work during the usual hours for your occupation. For example, if your occupation

normally requires both day and evening hours of work, you must be available for work both day and evening hours.

(3) You must be available for work all days of the week that are usual for your occupation, even if you have not worked those days in the past. If you are not available for work on any day that is a usual day of work for your occupation, we will reduce your benefits under RCW 50.20.130. For example, if your occupation usually works Monday through Friday, you must be available for work Monday through Friday, even if you have only worked weekends in the past.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. 05-19-018, § 192-170-070, filed 9/9/05, effective 10/10/05.]

Chapter 192-180 WAC JOB SEARCH REQUIREMENTS

WAC

192-180-013	What are the job search requirements for individuals who work less than full time?
192-180-014	Requirements of individuals who leave work due to domestic violence or stalking—RCW 50.20.010 (1)(c).

WAC 192-180-013 What are the job search requirements for individuals who work less than full time? (1) "Partially unemployed" workers are those individuals:

(a) Who were hired to work full time,

(b) Whose weekly hours of work have been temporarily reduced to less than full time by their employer,

(c) Who earn less than one and one-third times their weekly benefit amount plus five dollars during a week, and

(d) Who are expected to return to full time work for their employer within four months.

These workers are considered to be employer attached and are not required to register for or seek work. They must be available for all work offered by their regular employer.

(2) **"Part time"** workers are individuals who normally work less than full time, or who take a job that is less than full time. To be eligible for benefits, these individuals must be available for and actively seeking full time work and the department may review their job search at any time. If they get a part time job, they must continue to look for full time work or we will deny their benefits under RCW 50.20.010 (1)(c). This definition of "part time" workers means individuals who work part time but do not meet the requirements of RCW 50.20.119.

(3) **"Part time eligible"** workers are individuals who have worked no more than 17 hours in any week of their base year. They are eligible for benefits under RCW 50.20.119. These individuals may look for work of 17 or fewer hours per week and the department may review their job search at any time. Once an individual gets a job for 17 or fewer hours per week, he or she is employer attached and no longer required to look for work.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. 05-19-018, § 192-180-013, filed 9/9/05, effective 10/10/05.]

WAC 192-180-014 Requirements of individuals who leave work due to domestic violence or stalking—RCW 50.20.010 (1)(c). If you are allowed benefits because the department decides you left work for good cause due to

domestic violence or stalking, each week you claim benefits you must demonstrate an attachment to the labor market by being able to work, available for work, and actively seeking suitable work. In general, claimants are required to make at least three job search contacts each week. You may make the number of contacts that are consistent with your need to address issues raised by domestic violence or stalking as long as you meet the requirements of RCW 50.20.010 (1)(c) by making at least one job search contact each week you claim benefits. You may substitute participation in an approved job search activity at the WorkSource office or local employment center for the required job search contact.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, and 50.20.010. 05-13-156, § 192-180-014, filed 6/21/05, effective 7/22/05.]

Chapter 192-300 WAC REGISTERING FOR UNEMPLOYMENT INSURANCE TAXES

WAC

192-300-050 What is a predecessor-successor relationship?

WAC 192-300-050 What is a predecessor-successor relationship? This section applies only to those individuals and organizations that meet the definition of an employer contained in RCW 50.04.080.

(1) **Predecessor.** You are a "predecessor" if, during any calendar year, you transfer any of the following to another individual or organization:

(a) All or part of your operating assets as defined in subsection (3) below; or

(b) A separate unit or branch of your trade or business.

(2) **Successor.** You are a "successor" if, during any calendar year, you acquire substantially all of a predecessor employer's operating assets. You are a "partial successor" if, during any calendar year, you acquire:

(a) Part of a predecessor employer's operating assets, or

(b) A separate unit or branch of a predecessor employer's trade or business.

(3) **Operating assets.** "Operating assets" include the resources you use in the normal course of business to produce your operating income. They may include resources that are real or personal, and tangible or intangible. Examples include land, buildings, machinery, equipment, stock of goods, merchandise, fixtures, employees, or goodwill.

(4) **Transfer of assets.** Transfers from a predecessor to a successor employer may occur by sale, lease, gift, or any legal process, except those listed in subsection (6) below.

(5) **Simultaneous acquisition.** For purposes of successor simultaneous acquisition, the term "simultaneous" means all transfers that resulted from acquiring or reorganizing the business, beginning when the acquisition started and ending when the primary unit is transferred.

(6) **Exceptions.** A predecessor-successor relationship will not exist:

(a) For the purposes of chapter 50.24 RCW (payment of taxes), when the property is acquired through court proceedings, including bankruptcies, to enforce a lien, security interest, judgment, or repossession under a security agreement unless the court specifies otherwise;

(b) For the purposes of chapter 50.29 RCW (experience rating), when any four consecutive quarters, one of which includes the acquisition date, pass without reportable employment by the predecessor, successor, or a combination of both.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. 05-19-017, § 192-300-050, filed 9/9/05, effective 10/10/05; 04-23-058, § 192-300-050, filed 11/15/04, effective 12/16/04. Statutory Authority: RCW 50.12.010, 50.12.040. 00-05-068, § 192-300-050, filed 2/15/00, effective 3/17/00.]

Chapter 192-310 WAC REPORTING OF WAGES AND TAXES DUE

WAC

192-310-010 What reports are required from an employer?—RCW 50.12.070.
192-310-030 What are the report and tax payment penalties?

WAC 192-310-010 What reports are required from an employer?—RCW 50.12.070. (1) Master application. Every person or unit with one or more individuals performing services for it in the state of Washington must file a master application with the department. The application must be in a format approved by the commissioner.

(2) Quarterly tax and wage reports:

(a) **Tax report.** Each calendar quarter, every employer must file a tax report with the commissioner. The report must list the total wages paid to every employee during that quarter.

(b) **Report of employees' wages.** Each calendar quarter, every employer must file a report of employees' wages with the commissioner. This report must list each employee by name, Social Security number, and total hours worked and wages paid during that quarter.

(i) Social Security numbers are required for persons working in the United States;

(ii) If an individual has a Social Security card, he or she must present the card to the employer at the time of hire or shortly after that. This does not apply to agricultural workers who, under federal rules, may show their Social Security card on the first day they are paid;

(iii) If the individual does not have a Social Security card, Internal Revenue Service rules allow an employer to hire the individual with the clear understanding that the individual will apply for a Social Security number within seven calendar days of starting work for the employer. The individual must give the employer a document showing he or she has applied for a Social Security card. When the card is received, the individual must give the employer a copy of the card itself. An employer should keep copies of the document(s) for his or her records; and

(iv) If the employee does not show his or her Social Security card or application for a card within seven days and the employer continues to employ the worker, the employer does not meet the reporting requirements of this section. The department will not allow waiver of the incomplete report penalty (see WAC 192-310-030).

(c) **Format.** Employers must file the quarterly tax and wage reports in one of the following formats:

(i) Electronically, using the current version of UIFast-Tax, UIWebTax, or ICESA Washington; or

(ii) Paper forms supplied by the department (or an approved version of those forms).

(d) Due dates. The quarterly tax and wage reports are due by the last day of the month following the end of the calendar quarter being reported. Calendar quarters end on March 31, June 30, September 30 and December 31 of each year. So, reports are due by April 30, July 31, October 31, and January 31, in that order. If these dates fall on a Saturday, Sunday, or holiday, the reports will be due on the next business day. The commissioner must approve exceptions to the time and method of filing in advance.

(e) Termination of business. Each employer who stops doing business or whose account is closed by the department must immediately file:

(i) A tax report for the current calendar quarter which covers tax payments due on the date the account is closed; and

(ii) A report of employees' wages for the current calendar quarter which includes all wages paid as of the date the account is closed.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. 05-19-017, § 192-310-010, filed 9/9/05, effective 10/10/05; 04-23-058, § 192-310-010, filed 11/15/04, effective 12/16/04. Statutory Authority: RCW 50.12.070. 98-14-068, § 192-310-010, filed 6/30/98, effective 7/31/98.]

WAC 192-310-030 What are the report and tax payment penalties? (1) Penalty for late tax reports. An employer who does not file a tax report within the time frame required by WAC 192-310-010 (2)(c) must pay a penalty of twenty-five dollars for each violation, unless the penalty is waived by the department.

(2) **Definition of incomplete tax report.** An employer must file a tax report that is complete and in the format required by the commissioner.

(a) An "incomplete report" is any report filed by any employer or their agent where:

- (i) The entire wage report is not filed on time; or
- (ii) A required element is not reported (Social Security number, name, hours worked, or wages paid); or
- (iii) A significant number of employees are not reported;

or

(iv) A significant number of any given element is not reported, for example, missing Social Security numbers, names, hours, or wages; or

(v) Either the employer reference number or Unified Business Identifier (UBI) number is not included with the tax or wage report; or

(vi) The report includes duplicate Social Security numbers, or impossible Social Security numbers as shown by the Social Security Administration (such as 999-99-9991, 999-99-9992, etc.).

(b) An "incorrect format" means any report that is not filed in the format required by the commissioner under WAC 192-310-010 (2)(c).

(c) For purposes of this section, the term "significant" means an employer who has:

- (i) Two to 19 employees and reports incomplete wage records for two or more employees; or
- (ii) Twenty to 49 employees and reports incomplete wage records for three or more employees; or

(iii) Fifty or more employees and reports incomplete wage records for four or more employees.

(3) **Penalty for filing an incomplete or incorrect format tax report.** An employer who files an incomplete or incorrectly formatted tax and wage report will receive a warning letter for the first occurrence. For subsequent occurrences the employer must pay a penalty as follows:

(a) Two hundred fifty dollars or ten percent of the quarterly contributions for each occurrence, whichever is less.

(b) When no quarterly tax is due and an employer has submitted an incomplete report or filed the report in an incorrect format, the following schedule will apply after the initial warning letter:

(i)	1st occurrence	\$75.00
(ii)	2nd occurrence	\$150.00
(iii)	3rd and subsequent occurrences	\$250.00

(4) **Penalty for knowingly misrepresenting amount of payroll.** If an employer knowingly (on purpose) misrepresents to the department the amount of his or her payroll that is subject to unemployment taxes, the penalty is ten times the difference between the taxes paid, if any, and the amount of taxes the employer should have paid for the period. This penalty is in addition to the amount the employer should have paid. The employer must also pay the department for the reasonable expenses of auditing his or her books and collecting taxes and penalties due as provided in WAC 192-340-100.

(5) **Late tax payments.** All employers must file a tax report every quarter, including employers who have no payroll for a given quarter. If an employer does not report on time, it will be charged a late fee of \$25.00 for each report. If the payment is late, the employer will be charged interest at a rate of one percent of taxes due per month. A late payment penalty is also charged for overdue taxes:

(a) First month: Five percent of the total taxes due or \$10.00, whichever is greater;

(b) Second month: An additional five percent of total taxes due or \$10.00, whichever is greater;

(c) Third month: An additional 10 percent of total taxes due or \$10.00, whichever is greater; and

(d) Fourth month and every month following for the life of the delinquent debt: A total of 20 percent of total taxes due or \$10.00, whichever is greater.

(6) **Waivers of late filing and late payment penalties.** The department may, for good cause, waive penalties for late filing of a report and late payment of taxes that are due with a report. The commissioner must decide if the failure to file reports or pay taxes on time was not the employer's fault.

(a) The department may waive late penalties when there are circumstances beyond the control of the employer. These circumstances include, but may not be limited to, the following:

(i) The return was filed on time with payment but inadvertently mailed to another agency;

(ii) The delinquency was caused by an employee of the department, such as providing incorrect information to the employer, when the source can be identified;

(iii) The delinquency was caused by the death or serious illness, before the filing deadline, of the employer, a member of the employer's immediate family, the employer's accountant, or a member of the accountant's immediate family;

(iv) The delinquency was caused by the unavoidable absence of the employer or key employee before the filing deadline. "Unavoidable absence" does not include absences because of business trips, vacations, personnel turnover, or terminations;

(v) The delinquency was caused by the accidental destruction of the employer's place of business or business records;

(vi) The delinquency was caused by fraud, embezzlement, theft, or conversion by the employer's employee or other persons contracted with the employer, which the employer could not immediately detect or prevent. The employer must have had reasonable safeguards or internal controls in place; or

(vii) The employer, before the filing deadline, requested proper forms from the department's central office or a district tax office, and the forms were not supplied in enough time to allow the completed report to be filed and paid before the due date. The request must have been timely, which means at least three days before the filing deadline.

(b) The department may waive late penalties if it finds the employer to be out of compliance during an employer-requested audit, but the department decides the employer made a good faith effort to comply with all applicable laws and rules; and

(c) The department will not waive late penalties if the employer has been late with filing or with payment in any of the last eight consecutive quarters immediately preceding the quarter for which a waiver is requested. If an employer has been in business for fewer than the eight preceding quarters, then all preceding quarters must have been filed and paid on time and a one-time only waiver may be granted.

(7) Incomplete reports or incorrect format penalty waivers. For good cause, the department may waive penalties for incomplete reports or reports in an incorrect format one time only when the employer can demonstrate making a good faith attempt to correct the problem in a timely manner after the department notified the employer of the problem.

(8) Missing and impossible Social Security numbers. When a Social Security number is impossible or missing, the department may waive penalties for incomplete reports only once for each worker and only when:

(a) The report was incomplete because it included impossible Social Security numbers, but the employer can show that the impossible Social Security numbers were provided to the employer by the employees; or

(b) The report was incomplete because of missing Social Security numbers, but the employer can show that the employee did not work for the employer after failing to provide a valid Social Security card or application for Social Security number within seven days of employment.

(9) Waiver requests. An employer must request a waiver of penalties in writing, include all relevant facts, attach available proof, and file the request with a tax office. In all cases the burden of proving the facts is on the employer.

(10) Extensions. The department, for good cause, may extend the due date for filing a report. If granted, the employer must make a deposit with the department in an amount equal to the estimated tax due for the reporting period or periods. This deposit will be applied to the employer's

debt. The amount of the deposit must be approved by the department.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. 05-19-017, § 192-310-030, filed 9/9/05, effective 10/10/05; 04-23-058, § 192-310-030, filed 11/15/04, effective 12/16/04. Statutory Authority: RCW 50.12.010 and 50.12.040. 98-14-068, § 192-310-030, filed 6/30/98, effective 7/31/98.]

Chapter 192-320 WAC

EXPERIENCE RATING AND BENEFIT CHARGING

WAC

192-320-005	What is "experience?"—RCW 50.29.021.
192-320-010	When is experience transferred to a successor employer?
192-320-020	How is the industry average calculated?—RCW 50.29.025.
192-320-050	What are the requirements of partial successors under chapter 50.29 RCW?
192-320-051	What are the requirements of partial predecessors under chapter 50.29 RCW?

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

192-320-060	Delinquent predecessor taxes. [Statutory Authority: Chapters 34.05, 50.12 RCW and portion of RCW 50.29.062. 00-01-165, § 192-320-060, filed 12/21/99, effective 1/21/00. Formerly WAC 192-12-076.] Repealed by 05-19-017, filed 9/9/05, effective 10/10/05. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042.
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WAC 192-320-005 What is "experience?"—RCW 50.29.021. As used in this chapter, the term "experience" includes matters that have a direct relation to the risk of unemployment. Any benefits paid that are based on wages paid by the employer and chargeable under RCW 50.29.020 are considered experience.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. 05-19-017, § 192-320-005, filed 9/9/05, effective 10/10/05.]

WAC 192-320-010 When is experience transferred to a successor employer? (1) Any benefits paid which are based on wages paid by the predecessor employer before the transfer of ownership must be charged to the successor employer. Just as the successor employer gets the organization, trade, business, assets, and experience of a predecessor employer as of the date of transfer, it must also get the benefit charges for past, current, or future claims connected to the predecessor employer (or a part of the predecessor employer that can be singled out) prior to the transfer.

(2) Once experience has been transferred, it becomes the successor employer's experience. It must be used to decide the successor's rates for any rate year that follows the year in which the transfer occurs. (There is an exception when, following the transfer, the successor does not have enough experience to be a qualified employer under RCW 50.29.010(6).) Since the transferred experience belongs to the successor employer, it may no longer be used to compute rates for the predecessor employer for rate years that follow.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. 05-19-017, § 192-320-010, filed 9/9/05, effective 10/10/05.]

WAC 192-320-020 How is the industry average calculated?—RCW 50.29.025. (1) As used in this title:

(a) "NAICS" is an abbreviation for North American Industry Classification System;

(b) "Industry average array calculation factor rate" means the average experience-based tax rate for a particular industry. It will be referred to as the "experience tax."

(c) "Industry average graduated social cost factor rate" is the average social tax rate for a particular industry. It will be referred to as the "social tax."

(2) When calculating the experience tax and social tax, the department will use the first four digits of the NAICS code of the industry being calculated.

(3) Experience tax.

(a) The department will calculate the experience tax as follows:

(i) A table will be prepared that contains each of the 40 rate classes;

(ii) For each rate class, we will multiply, total, and display the taxable payrolls for all qualified employers assigned to that rate class with the NAICS code being calculated, by the percentage assigned to that rate class;

(iii) We will total the tax rates for the 40 industry rate classes and divide the sum by the total of all payrolls used in the calculation; and

(iv) We will add fifteen percent to the result, and show the final amount as a percentage rounded to two decimal places.

(b) The experience tax must be at least 1.00 percent and not more than 5.4 percent.

(4) Social tax.

(a) The department will calculate the social tax as follows:

(i) The experience tax table will show the percentage of the social tax assigned to each of the 40 rate classes;

(ii) We will multiply, total, and display the total payroll in each industry rate class by the percentage of social tax assigned to that rate class;

(iii) We will total the social tax rate for the 40 industry rate classes and divide the sum by the total of all payrolls used in the calculation; and

(iv) We will add fifteen percent to the result, and show the final amount as a percentage rounded to two decimal places.

(b) The social tax for an industry cannot be higher than the percentage of social tax assigned to rate class 40.

(5) If there are no qualified employers in the four digit level of the NAICS code, we will calculate the rates using the corresponding three digit level and assign the result to the four digit level. If there are no qualified employers in the three digit level, we will calculate the rates using the corresponding two digit level and assign the result to both the three and four digit levels.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. 05-19-017, § 192-320-020, filed 9/9/05, effective 10/10/05.]

WAC 192-320-050 What are the requirements of partial successors under chapter 50.29 RCW? (1) If you are a partial successor, both you and the predecessor employer must return the partial transfer of experience letter provided to you by the department within thirty days of the

mailing date. Your response must show the percentage of operating assets transferred to you as the partial successor. Operating assets include the employees of the business.

(2) If you are an employer at the time of the transfer, you will keep your existing rate class for the rest of the current rate year. If you are not an employer when you acquire the predecessor's business, you will keep the rate class that was assigned to the predecessor employer for the rest of the rate year.

(3) If you do not respond, for subsequent rate years the commissioner will estimate the percentage of employees transferred based on employment reports filed. That percentage will transfer to the successor until it provides compelling evidence to change the estimate.

(4) Changes in rate class are effective for the rate year the information was provided and for subsequent rate years only.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. 05-19-017, § 192-320-050, filed 9/9/05, effective 10/10/05. Statutory Authority: RCW 50.12.010, 50.12.040. 00-05-068, § 192-320-050, filed 2/15/00, effective 3/17/00.]

WAC 192-320-051 What are the requirements of partial predecessors under chapter 50.29 RCW? (1) If you are a partial predecessor, both you and the successor

employer must return the partial transfer of experience letter provided to you by the department within thirty days of the mailing date. Your response must show the percentage of operating assets transferred by you as the partial predecessor. Operating assets include the employees of the business.

(2) If you do not return the letter within thirty days, you will keep your existing rate class for the remainder of the current rate year.

(3) If you do not respond, for subsequent rate years the commissioner will estimate the percentage of employees transferred based on employment reports filed. That percentage will transfer to the successor until compelling evidence is provided to change the estimate.

(4) Changes in rate class are effective for the rate year the information was provided and for subsequent rate years only.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. 05-19-017, § 192-320-051, filed 9/9/05, effective 10/10/05.]

Title 196 WAC

LICENSING, DEPARTMENT OF (ENGINEERS AND LAND SURVEYORS, BOARD OF REGISTRATION FOR PROFESSIONAL)

**Chapters
196-25**

Business practices.

Chapter 196-25 WAC

BUSINESS PRACTICES

WAC

196-25-002	Definitions.
196-25-040	Provisions pertaining to only corporations, joint stock associations and limited liability companies.

WAC 196-25-002 Definitions. Board. The Washington state board of registration for professional engineers and land surveyors.

Professional engineer. A person registered by the board under chapter 18.43 RCW to practice engineering in this state.

Professional land surveyor. A person registered by the board under chapter 18.43 RCW to practice land surveying in this state.

Resident engineer or resident land surveyor. A currently registered professional engineer or land surveyor who maintains a business headquarters or branch office as his/her normal place of employment, and is in responsible charge of the engineering and/or land surveying services.

Business. A corporation, professional service corporation (PS), joint stock association (JSA) or limited liability company (LLC) or professional limited liability company (PLLC) that is practicing or offering to practice, engineering or land surveying or both in this state.

Designee, designated engineer, designated land surveyor. A currently registered professional engineer designated by the business to be in responsible charge of engineering activities for the business in Washington, OR, a currently registered professional land surveyor designated by the business to be in responsible charge of land surveying activities for the business in Washington.

Employee. A person in the service of another under any contract of hire, express or implied, oral or written, where the employer has the right to control and direct the employee in the material details of the scope, schedule and location of employment.

Branch office. One or more alternate locations in Washington of a business, not recognized as the business' main office or headquarters, which is established to offer and provide engineering and/or land surveying services from that location.

Project office. A temporary remote location of an engineering and/or land surveying business that is a convenient workplace for providing specific engineering and/or land surveying services only in support of a project.

Certificate of authorization. A certificate issued by the board, pursuant to chapter 18.43 RCW, to a business authorizing it to practice engineering or land surveying or both in this state. (Note: This is a different certificate than the certificate of authorization that may be filed with the secretary of state.)

[Statutory Authority: RCW 18.43.035, 05-17-053, § 196-25-002, filed 8/9/05, effective 9/9/05. Statutory Authority: RCW 18.43.035 and 18.43.130, 98-12-053, § 196-25-002, filed 5/29/98, effective 7/1/98.]

WAC 196-25-040 Provisions pertaining to only corporations, joint stock associations and limited liability companies. (1) If the business offers both engineering and land surveying services, there must be a designee for each

profession. If a person is licensed in both engineering and land surveying, that person may be designated for both professions.

(2) An affidavit must be signed by the designee(s) stating that he or she knows they have been designated by the business as being responsible for the engineering and/or land surveying activities in the state of Washington.

(3) The designated engineer and/or designated land surveyor must be an employee of the business.

(4) No person may be the designated engineer or designated land surveyor at more than one business at any one time.

(5) When there is a change in the designee(s), the business must notify the board in writing no later than thirty days after the effective date of the change and submit a new affidavit.

(6) If the business changes its name, the business must submit a copy of its amended certificate of authority or amended certificate of incorporation (for corporations) or a copy of the certificate of amendment (for LLC's), as filed with the secretary of state within thirty days of the name change.

(7) At the time of renewal, the corporation or limited liability company must submit a copy of the document issued to their company by the state of Washington master license service which states that the corporation or limited liability company has been "renewed by the authority of the secretary of state" and shows a current expiration date.

(8) The filing of the resolution shall not relieve the business of any responsibility or liability imposed upon it by law or by contract. Any business that is certified under chapter 18.43 RCW and this chapter is subject to the authority of the board as provided in RCW 18.43.035, 18.43.105, 18.43.110, and 18.43.120.

[Statutory Authority: RCW 18.43.035, 05-17-053, § 196-25-040, filed 8/9/05, effective 9/9/05; 99-15-057, § 196-25-040, filed 7/15/99, effective 8/15/99. Statutory Authority: RCW 18.43.035 and 18.43.130, 98-12-053, § 196-25-040, filed 5/29/98, effective 7/1/98.]

Title 199 WAC

ENVIRONMENTAL HEARINGS OFFICE (ENVIRONMENTAL AND LAND USE HEARINGS BOARD)

Chapters

199-08

Practice and procedure—Before the environmental and land use hearings board.

Chapter 199-08 WAC

PRACTICE AND PROCEDURE—BEFORE THE ENVIRONMENTAL AND LAND USE HEARINGS BOARD**WAC**

199-08-300	Purpose of this chapter and applicability of the board's rules of practice to the civil rules of procedure and the rules of evidence.
199-08-305	Definitions.
199-08-310	Computation of time.
199-08-315	Board membership, function and jurisdiction.
199-08-320	Office hours, telephone number, telefacsimile number and address of the board.
199-08-325	Public information about practice before the board and public records.
199-08-330	Types of petitions before the board.
199-08-335	Where to file a petition for review and number of copies.
199-08-340	Contents of the petition for review.
199-08-345	Correction or amendment of notice.
199-08-350	Persons who may appear before the board.
199-08-355	Appearance by representative.
199-08-360	Withdrawal or substitution of representatives.
199-08-365	Conduct before the board by representatives.
199-08-370	Parties not represented by legal counsel—Waiver of rules to prevent manifest injustice.
199-08-375	Presiding officer duties and powers.
199-08-380	Mediation.
199-08-385	Subpoenas.
199-08-390	Dismissal of petitions for review on jurisdictional grounds.
199-08-395	Answers to petitions for review.
199-08-400	Certification of permit applications.
199-08-425	Intervention.
199-08-430	Joinder of parties.
199-08-435	Request for initial hearing, jurisdictional motions.
199-08-440	Scheduling of initial hearing and motions.
199-08-445	Initial hearing.
199-08-450	Case conferences.
199-08-455	Stays.
199-08-460	Discovery.
199-08-465	Motions.
199-08-470	Settlement and mediation agreements.
199-08-475	Use of telephone conferences, motion hearings and hearings.
199-08-480	Postponements and continuances of hearings.
199-08-485	Dismissal, default or withdrawal of appeal.
199-08-490	Hearing briefs.
199-08-495	Procedures for hearings on the merits.
199-08-500	Scope and standard of review.
199-08-505	Provision of interpreters and of reasonable accommodations to individuals with special needs.
199-08-510	Rules of evidence—Admissibility criteria.
199-08-515	Rules of evidence—Official notice—Matters of law.
199-08-520	Rules of evidence—Official notice—Material facts.
199-08-525	Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections.
199-08-540	Contents of the record.
199-08-545	Preparation of transcripts.
199-08-550	Preparation of findings, conclusions and orders.
199-08-555	Final decisions and orders.
199-08-565	Petitions for reconsideration.
199-08-570	Time for filing petitions for review to superior court and court of appeals.
199-08-580	Certification of record.

WAC 199-08-300 Purpose of this chapter and applicability of the board's rules of practice to the civil rules of procedure and the rules of evidence. (1) The purpose of chapter 199-08 WAC is to provide rules of practice before the environmental and land use hearings board (hereinafter "board"). The interpretation of these rules may be guided, where relevant, by the civil rules of superior court (hereinafter "civil rules") and the rules of evidence for the superior courts of the state of Washington, as those rules have been construed by Washington state courts.

(2) Except where in conflict with the board's rules, Washington statutes regarding pretrial procedures, civil rules

and rules of evidence shall be followed in proceedings before the board unless the presiding officer determines that the evidence, although in conflict with the rules, is admissible pursuant to WAC 199-08-515.

(3) This chapter shall govern practice before the board. The rules in this chapter are consistent with the model rules of procedure issued by the office of administrative hearings, chapter 10-08 WAC except where specifically noted.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-300, filed 3/11/05, effective 3/11/05.]

WAC 199-08-305 Definitions. As used in this chapter the following terms shall have the following meanings:

(1) "Agency" means any state or local governmental entity.

(2) "Adjudicative proceeding" means a proceeding involving an opportunity for hearing before the board as defined in chapter 34.05 RCW. The terms "appeal," "adjudicative proceeding" and "case" are used interchangeably in this chapter.

(3) "Board" means the environmental and land use hearings board, a quasi-judicial body created pursuant to chapter 43.21L RCW and described in WAC 199-08-315.

(4) "Filing" of a document means actual receipt by the board during regular office hours. Any document filed with the board shall contain an affirmation that copies were served on the appropriate agency, local government and parties. Filing by facsimile is permitted of documents ten pages or less if the original document is concurrently mailed or submitted to a commercial delivery service.

(5) "Final decision" means the highest and last decision available within the permit agency with respect to a permit application to the agency, including, but not limited to, decisions resulting from internal appeals available within the agency for the permit decision.

(6) "Participating permit agency" means any permit agency in which the applicant for a qualifying project has filed an application for an environmental or land use permit that is required for the qualifying project.

(7) "Party" means:

(a) A person to whom any local government or agency decision is specifically directed;

(b) A person named as a party to the appeal, or allowed to intervene or joined as a party by the board;

(c) Any participating permit agency.

(8) "Permit" means any license, permit, certificate, certification, approval, compliance schedule, or other similar document pertaining to any regulatory or management program related to the protection, conservation, use of, or interference with the land, air, or water in the state. This document must be required to be obtained from a state agency or local government, including, but not limited to, counties, cities, and air agencies, prior to constructing or operating a qualifying project. Local government permits include, but are not limited to, subdivisions, binding site plans, planned unit developments, shoreline permits or other approvals under RCW 90.58.140, master plan approvals, site plan approvals, permits or approvals required by critical area ordinances, conditional use permits, variances, and site-specific rezones authorized by a comprehensive plan or subarea plan or other equivalent documents however titled or denominated. Local

government permits excluded under this definition include the adoption or amendment of a comprehensive plan, subarea plan, legislative actions or development regulations, certifications by local health districts of water and sewer availability, and building, grading, flood hazard, utility connection, and other nondiscretionary construction permits.

(9) "Permit agency" means any state agency or local government, including, but not limited to, air agencies, authorized by law to issue permits.

(10) "Person" means any individual, partnership, corporation, association, organization, governmental subdivision, agency or entity of any character.

(11) "Petition for review" is a document that when properly filed with the board initiates an adjudicative proceeding before the board.

(12) "Presiding officer" means any member of the board or an administrative appeals judge who is assigned to conduct a conference or hearing by the chairperson or the vice-chairperson.

(13) "Service" of a document means delivery of the document to the other parties to the appeal. Service may be made in any of the following ways:

(a) Personally, in accordance with the laws of the state, with a return of service or affidavit of service completed.

(b) First-class, registered or certified mail. Service is complete upon deposit in the United States mail properly stamped and addressed.

(c) Facsimile transmission with mailing or submission to a commercial delivery service of copies on the same day. Service by facsimile is regarded as complete by production of the confirmation of transmission and evidence of mailing or submission to a delivery service of the copies.

(d) Commercial delivery service. Service by commercial delivery service is regarded as complete upon delivery to the delivery company with charges prepaid.

(14) "Qualifying project" means an economic development project that is:

(a) Located within a county that in its entirety qualifies as a distressed area as defined in RCW 43.168.020(3), and a rural natural resources impact area as defined in RCW 43.160.020;

(b) Designed to provide at least thirty full-time year-round jobs; and

(c) Designated as a qualifying project by the office of permit assistance established under chapter 43.42 RCW if a request for a determination of such designation is made to the office by the project applicant as provided by law.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-305, filed 3/11/05, effective 3/11/05.]

WAC 199-08-310 Computation of time. (1) In computing any period of time prescribed or allowed by these rules or applicable statute, the day of the act after which the designated period of time begins to run is not to be included. The time within which any act shall be done, as provided by these rules, shall be computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday or a legal holiday, and then it is excluded and the next succeeding day which is neither a Saturday, Sunday nor a legal holiday is included. When the period of time prescribed or

allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

(2) This section also pertains to the period for filing with the board any petition for review.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-310, filed 3/11/05, effective 3/11/05.]

WAC 199-08-315 Board membership, function and jurisdiction. (1) **Members.** An environmental and land use hearings board is established within the environmental hearings office created under RCW 43.21B.005. The environmental and land use hearings board shall be composed of six members, as provided in RCW 90.58.170. The chairperson of the pollution control hearings board shall be the chairperson of the environmental and land use hearings board. The members of the environmental and land use hearings board shall receive the compensation, travel, and subsistence expenses as provided in RCW 43.03.050 and 43.03.060.

(2) **Function and jurisdiction.** This board is a quasi-judicial body with powers to conduct de novo and record review consistent with chapter 43.21L RCW to adjudicate or determine appeals from any person aggrieved by the granting, denying or rescinding of a permit issued pursuant to chapter 43.21L RCW.

(3) **Expedited review.** The board shall provide expedited review of petitions filed under this chapter. Any matter reviewed on the decision record must be set for hearing within sixty days of the date set for submitting the decision record of all participating permit agencies, absent a showing of good cause for a different date or a stipulation of the parties. Any matter reviewed de novo must be set for hearing or trial no later than one hundred twenty days after the initial hearing date. The board shall issue a final decision and order within thirty days after the final hearing required in this section.

(4) **Administrative appeals judges.** The chairperson may appoint any member of the board or an administrative appeals judge from the environmental hearings office to be the presiding officer.

(5) This section is intended to be general and informational only and failure herein to list matters over which the board has jurisdiction shall not constitute a waiver or withdrawal of that jurisdiction.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-315, filed 3/11/05, effective 3/11/05.]

WAC 199-08-320 Office hours, telephone number, telefacsimile number and address of the board. (1) The administrative business of the board, except rule making, is performed by the environmental hearings office. To the extent necessary for rule making, the appeals board holds regular meetings at 10:00 a.m. on the second Tuesday of each month at the address set forth below.

(2) The board is organized within the Environmental Hearings Office, 4224 6th Avenue S.E., Building No. 2 Rowe Six, Lacey, Washington. The mailing address is:

Environmental and Land Use Hearings Board
4224 6th Avenue S.E., Building No. 2, Rowe Six
P.O. Box 40903
Lacey, WA 98504-0903

(3) The telephone number of the board is 360-459-6327. The telefacsimile number is 360-438-7699.

(4) The office hours of the environmental hearings office are 8:00 a.m. to 5:00 p.m., Monday through Friday, except for legal holidays.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-320, filed 3/11/05, effective 3/11/05.]

WAC 199-08-325 Public information about practice before the board and public records. (1) Questions about board procedures may be directed to the environmental hearings office by e-mail at eho@eho.wa.gov, by regular mail or, during regular office hours, by telephone or by telefacsimile. The board's web site address is: www.eho.wa.gov.

(2) Case files of appeals pending before the board, past written opinions of the board and other public records maintained by the board under chapter 198-12 WAC are available for public inspection and copying during regular office hours at the environmental hearings office. The form for requests for public records is set forth in WAC 198-12-140. Any person seeking to make copies of such public records may copy the documents at the environmental hearings office for a reasonable charge per page.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-325, filed 3/11/05, effective 3/11/05.]

WAC 199-08-330 Types of petitions before the board. The board is empowered to hear and decide the following:

Petitions for review of final decisions made by state agencies and local governments on permit applications for qualifying economic development projects.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-330, filed 3/11/05, effective 3/11/05.]

WAC 199-08-335 Where to file a petition for review and number of copies. (1) Proceedings for review under this chapter shall be commenced by filing a petition with the environmental and land use hearings board. An adjudicative proceeding before the board shall be begun by filing a petition for review and one copy at the environmental hearings office. The board shall acknowledge filing of the petition for review by a stamp and the board's stamp on the petition shall be prima facie evidence of the date of filing. The board may thereafter require that additional copies be filed.

(2) Such petition is barred, and the board may not grant review, unless the petition is timely filed with the board and timely served on the following persons who shall be parties to the review of the petition:

(a) The participating permit agencies, which for purposes of the petition shall be:

(i) If a state agency, the director thereof; and

(ii) If a local government, the jurisdiction's corporate entity which shall be served as provided in RCW 4.28.080; and

(b) Each of the following persons if the person is not the petitioner:

(i) Each person identified by name and address as applicant in the application to the participating permit agencies;

(ii) Each person identified in project application documents as an owner of the property at issue or, if none, each person identified as a taxpayer for the property at issue in the records of the county assessor.

(3) The petition is timely if it is filed and served on all parties listed in subsection (2) of this section within twenty-one days of the issuance by the permit agency of the permit for the qualifying project.

(4) For the purposes of this section, the date on which a permit decision is issued is:

(a) Three days after a written decision is mailed by the permit agency to the project applicant or, if not mailed, the date on which the permit agency provides notice that a written decision is publicly available; or

(b) If (a) of this subsection does not apply, the date the decision is entered into the public record.

(5) Service on all parties shall be by personal service or by mail. Service by mail is effective on the date of mailing. Proof of service shall be by affidavit or declaration under penalty of perjury.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-335, filed 3/11/05, effective 3/11/05.]

WAC 199-08-340 Contents of the petition for review. Petitions for review to the board pursuant to chapter 43.21L RCW and shall contain:

(1) The name, mailing address, telephone number and telefacsimile number (if available) of the appealing party, and of the representative, if any;

(2) Identification of the parties, by listing in the caption or otherwise. In every case, the agency and/or the local government whose decision is being appealed and the person to whom the decision is directed shall be named as parties;

(3) A copy of the application form without attachments, if available, which was filed with the local government pursuant to legal requirements;

(4) A copy of the decision or permit appealed from;

(5) A short and plain statement showing the grounds upon which the appealing party considers such decision or permit to be unjust or unlawful;

(6) A clear and concise statement upon which the appealing party relies to sustain his or her grounds for appeal;

(7) A clear and concise statement of fact demonstrating that the petitioner has standing to seek board review;

(8) A separate and concise statement of each error alleged to have been committed;

(9) The relief sought, including the specific nature and extent;

(10) The signature of the representative of the appealing party or of the appealing party. The signature of the representative or the appealing party shall constitute a certificate by the signatory that the signatory has read the petition and that it is consistent with civil rule 11;

(11) All pleadings shall be so construed as to do substantial justice.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-340, filed 3/11/05, effective 3/11/05.]

WAC 199-08-345 Correction or amendment of notice. (1) Within thirty days of receipt by the board, if any petition for review is found to be defective or insufficient, the

board may require the party filing the petition for review to correct, clarify or amend the same to conform to the requirements of any relevant statutes and the board's rules. The board may refuse to schedule any conference or hearing thereon until compliance with such requirements, or may issue an appropriate order, which may include providing for dismissal of the petition upon failure to comply within a specified time.

(2) Other amendments and supplemental pleadings shall conform to civil rule 15.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-345, filed 3/11/05, effective 3/11/05.]

WAC 199-08-350 Persons who may appear before the board. (1) Any person has the right to represent himself or herself in a proceeding before the board.

(2) The only persons who are qualified to represent another person or entity before the board are the following:

(a) Attorneys at law duly qualified and entitled to practice before the highest court of record of any state.

(b) An authorized officer, partner, owner, employee or member of an association, partnership, corporation, organization, government agency or local government.

(c) Legal interns admitted to practice under the applicable admission to practice rules of the Washington state court rules as long as the conditions and limitations of the applicable rules are satisfied.

(d) Any other individual designated by an entity to serve as a spokesperson in a case with the approval of the board's presiding officer.

(3) When an active part, as a representative of a participating agency, was taken in the same case or proceeding by a former employee, said former employee of:

(a) Any participating agency; or

(b) A member of the legal staff of a local governmental agency; or

(c) The attorney general's staff, may not appear in a representative capacity on behalf of other parties in a formal board proceeding, except when permitted by applicable state conflict of interest laws.

(4) No former member of the board shall, for a period of one year after the termination of his or her membership, represent a party before the board on any matter.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-350, filed 3/11/05, effective 3/11/05.]

WAC 199-08-355 Appearance by representative. (1) An attorney or authorized representative as defined in WAC 199-08-385 may appear for a party by either of the following actions:

(a) Filing a written notice of appearance, a petition for review or another pleading containing the name of the party to be represented, and the name, address and telephone number of the representative; or

(b) Entering an appearance at the time and place of a conference or hearing on the appeal, and notifying the presiding officer conducting the same of the party to be represented and the name, address and telephone number of the representative.

(2) Copies of every written notice of appearance or pleading that identifies the representative shall be served by

the representative on all other parties or their representatives of record at the time the original is filed with the board.

(3) After a representative appears on behalf of a party, the board shall serve all future notices, orders and correspondence upon such representative. Service upon the representative shall constitute service upon the party, except for final orders, which shall be served on both the party and the representative.

(4) After a representative appears on behalf of a party, and gives notice to all other parties to the appeal, all future pleadings and correspondence shall be served upon that representative. Service upon the representative shall constitute service upon the party.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-355, filed 3/11/05, effective 3/11/05.]

WAC 199-08-360 Withdrawal or substitution of representatives. An attorney or other representative withdrawing from a case shall immediately so notify the board and all parties of record in writing, or shall state such withdrawal for the record at a conference or hearing. Any substitution of an attorney or representative shall be accomplished by written notification to the board and to all parties of record, together with the written consent of the prior attorney or representative, and if such consent cannot be obtained, a written statement of the reason therefor shall be supplied.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-360, filed 3/11/05, effective 3/11/05.]

WAC 199-08-365 Conduct before the board by representatives. All persons who are representing parties before the board shall conform to the standards of ethical conduct required of attorneys before the courts of Washington even if the representative is not an attorney. Representatives who, in the opinion of the presiding officer, violate those ethical standards may be reprimanded or sanctioned. Sanctions may include, among other measures, the imposition of costs and the exclusion of the representative from the proceedings. The board may, after notifying the representative and holding a hearing, take appropriate disciplinary action including, but not limited to, barring such person from representing another party in any future board proceedings.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-365, filed 3/11/05, effective 3/11/05.]

WAC 199-08-370 Parties not represented by legal counsel—Waiver of rules to prevent manifest injustice. The presiding officer may waive any of these rules, other than a rule relating to jurisdiction, for any party not represented by legal counsel where necessary to avoid manifest injustice.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-370, filed 3/11/05, effective 3/11/05.]

WAC 199-08-375 Presiding officer duties and powers. It shall be the duty of the presiding officer to conduct conferences or hearings in cases assigned in an impartial and orderly manner. The presiding officer shall have the authority, subject to the other provisions of these rules:

(1) To administer oaths and affirmations.

(2) To issue subpoenas and protective orders as provided in the Administrative Procedure Act.

(3) To rule on all procedural matters, objections and motions.

(4) To rule on all offers of proof and receive relevant evidence.

(5) To question witnesses called by the parties in an impartial manner to develop any facts deemed necessary for a fair and adequate decision.

(6) To secure and present in an impartial manner such evidence, in addition to that presented by the parties, as deemed necessary to decide the matter fairly and equitably.

(7) To take appropriate disciplinary action with respect to representatives of parties appearing before the board.

(8) To issue orders joining other parties, on motion of any party, or in the judgment of the presiding officer, when it appears that such other parties may have an interest in, or may be affected by, the proceedings.

(9) To consolidate matters for hearing when such consolidation will expedite disposition of the matters and avoid duplication of testimony and when the rights of the parties will not be prejudiced thereby.

(10) To hold case conferences.

(11) To permit and regulate the taking of discovery.

(12) To regulate the course of the hearing.

(13) To dismiss a petition for review or take other appropriate disciplinary actions, where a party or representative fails to appear or participate in a prehearing conference, hearing or at any other stage of the appeal proceeding.

(14) To take any other action necessary and authorized by these rules and the law.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-375, filed 3/11/05, effective 3/11/05.]

WAC 199-08-380 Mediation. The board may, on occasion, recommend that the parties to an appeal engage in mediation. One or more parties may also recommend to the other parties or the presiding officer that mediation occur. Subject to availability, an administrative appeals judge from the environmental hearings office may serve as the mediator for the board. In the event that the mediation proves unsuccessful and the case proceeds to hearing, any administrative appeals judge who served as a mediator will neither preside over the hearing nor have any contact with the board members regarding the case other than to inform them that the mediation did not result in a settlement.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-380, filed 3/11/05, effective 3/11/05.]

WAC 199-08-385 Subpoenas. (1) **Issuance.** Subpoenas may be issued by any member of the board, the presiding officer assigned to the case or by the attorney of record, as provided in the Administrative Procedure Act. Each subpoena shall be subscribed with the signature of the issuing person. Parties desiring subpoenas to be signed by the presiding officer or a board member shall make a showing of general relevance and reasonable scope of the testimony or evidence sought, shall prepare the subpoenas for issuance, shall send them to the board's office for signature, and, upon return, shall make arrangements for service.

(2) **Form.** Every subpoena shall name the environmental and land use board and the title of the proceedings, and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents, or things under that person's control at a specified time and place.

(3) **Service.** Service of subpoenas to a witness who is not party to the case shall be made by personally serving a copy of the subpoena to such person, in accordance with civil rule 45, and tendering on demand, where entitled to make such a demand, the fees for one day's attendance and the mileage allowed by law. All costs shall be paid by the party seeking the attendance of the witness.

(4) **Proof of service.** The person serving the subpoena shall make proof of service by filing the subpoena and the required return, affidavit or acknowledgment of service with the board or presiding officer of the case. Failure to make proof of service does not affect the validity of the service.

(5) **Quashing.** Upon motion made promptly (at or before the time specified in the subpoena for compliance) by the person subpoenaed and upon notice to the party for whom the subpoena was issued, the board or its presiding officer may:

(a) Quash; or

(b) Modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue; or

(c) Condition denial of the motion upon just and reasonable conditions.

(6) **Geographical scope.** Attendance of witnesses and production of evidence may be required from any place in the state of Washington, at any designated place of hearing.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-385, filed 3/11/05, effective 3/11/05.]

WAC 199-08-390 Dismissal of petitions for review on jurisdictional grounds. (1) Timely filing of the petition for review, and other petitions within the board's jurisdiction is required for the board to acquire jurisdiction.

(2) Any party may challenge the jurisdiction of the board to hear a petition for review on jurisdictional grounds, and the board may independently raise the jurisdictional issue. The board may, when satisfied that it does not have jurisdiction, dismiss the petition for review.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-390, filed 3/11/05, effective 3/11/05.]

WAC 199-08-395 Answers to petitions for review. A party need not file an answer to a petition for review filed pursuant to these rules.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-395, filed 3/11/05, effective 3/11/05.]

WAC 199-08-400 Certification of permit applications. (1) Within seven days after receipt of service of the petition filed pursuant to law, the project applicant shall file with the board and serve on all parties an affidavit certifying all applications for permits that the project applicant has filed with participating permit agencies for the qualifying project, provided, however, that no permit may be included that has been issued and appealed to an administrative hearings board.

or to court prior to the date of service of the petition filed with the board under this chapter. The board shall request verification from the participating agencies of the permit applications certified in the project applicant's affidavit and of the expected date for final decision on the permit applications. Filing of the affidavit shall toll the schedule for hearing by the board until twenty-one days after issuance of the final permit decision on the last permit required for the qualifying project that has been certified in the project applicant's affidavit and verified by a participating agency as applied for, unless the petition filed and served by the petitioner relates to the final permit decision.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-400, filed 3/11/05, effective 3/11/05.]

WAC 199-08-425 Intervention. (1) The presiding officer may grant a petition for intervention by any person at any time, upon determining that the petitioner qualifies as an intervenor pursuant to civil rule 24, that the intervention will serve the interests of justice and that the prompt and orderly conduct of the appeal will not be impaired.

(2) The presiding officer may impose conditions upon the intervenor's participation in the proceedings.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-425, filed 3/11/05, effective 3/11/05.]

WAC 199-08-430 Joinder of parties. The presiding officer shall order the joinder of the permittee, permitting agency or any other interested person or entity in accordance with civil rule 19. The presiding officer may also permit the joinder of persons who are not necessary to the determination of the appeal in accordance with civil rule 20.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-430, filed 3/11/05, effective 3/11/05.]

WAC 199-08-435 Request for initial hearing, jurisdictional motions. Initial hearing.

(1) Within seven days after the expiration of the appeal period for the final permit decision on the last permit required for the qualifying project, the petitioner shall request an initial hearing on jurisdictional and other preliminary matters, and, if applicable, on other pretrial matters. This initial hearing shall be set no sooner than thirty-five days and not later than fifty days after the expiration of the appeal period for the final permit.

(2) The parties shall raise all motions on jurisdictional and procedural issues for resolution at the initial hearing, except that a motion to allow discovery may be brought sooner.

(3) The defenses of lack of standing, untimely filing or service of the petition, lack of good faith or improper purpose in filing, and failure to join persons needed for just adjudication are waived if not raised by timely motion to be heard at the initial hearing, unless the board allows discovery on such issues.

(4) The parties may waive the initial hearing by scheduling with the board a date for the hearing or hearings on the merits and filing a stipulated order that resolves the jurisdictional and procedural issues raised by the petition, sets the date on which the permit decision record or records of the

applicable permit agency or agencies, if any, must be submitted, sets a briefing schedule, sets a discovery schedule if discovery is to be allowed, and schedules a hearing or hearings on the merits.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-435, filed 3/11/05, effective 3/11/05.]

WAC 199-08-440 Scheduling of initial hearing and motions. (1) Upon receipt of petitioner's request for an initial hearing, which complies with the requirements of these regulations, the board shall promptly mail to each party a scheduling letter, which sets the time and location of the initial hearing.

(2) The letter setting the initial hearing date and time will be mailed at least thirty-five days before the initial hearing date. The letter may also set the schedule for filing and briefing motions that must be heard at the initial hearing in accordance with WAC 199-08-435. The letter must notify the parties that an interpreter can be made available, upon reasonable notice to the board, for a witness or party who does not speak English or is hearing-impaired. The letter will control the proceedings at the initial hearing unless modified for good cause by the presiding officer.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-440, filed 3/11/05, effective 3/11/05.]

WAC 199-08-445 Initial hearing. (1) The initial hearing shall be conducted by a presiding officer who shall conduct the hearing in an orderly manner and make all necessary procedural rulings.

(2) The presiding officer shall designate a portion of the initial hearing for oral argument for any motions raised for resolution pursuant to WAC 199-08-435, if oral argument has been granted for the motions.

(3) At the conclusion of the initial hearing, the presiding officer shall issue an order that sets the date on which the permit decision record or records of the applicable permit agency or agencies, if any, must be submitted. The order shall also set a briefing schedule, a discovery schedule if discovery is to be allowed, and the date for a hearing or hearings on the merits, unless these matters have been set in an order issued after a case conference pursuant to WAC 199-08-455. The order shall control the proceedings unless modified for good cause by the presiding officer.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-445, filed 3/11/05, effective 3/11/05.]

WAC 199-08-450 Case conferences. The presiding officer may call case conferences to address procedures, legal issues, scheduling issues, the feasibility of settlement, and other relevant matters in the case. Orders in the case can be issued upon proceedings in a case conference, including scheduling, discovery, legal issues, witnesses, exhibits, stipulations and admissions. An order issued after a case conference shall control the proceedings with regards to the matters contained within the order unless modified for good cause by the presiding officer.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-450, filed 3/11/05, effective 3/11/05.]

WAC 199-08-455 Stays. (1) Any party may request the board to stay or suspend an action by a participating permit agency or another party to implement the decision under review. The request must set forth a statement of grounds for the stay and the factual basis for the request.

(2) The board may grant a stay only if the board finds that:

(a) The party requesting the stay is likely to prevail on the merits;

(b) Without the stay the party requesting it will suffer irreparable harm;

(c) The grant of a stay will not substantially harm other parties to the proceedings; and

(d) The request for the stay is timely in light of the circumstances of the case.

(3) The board may grant the request for a stay upon such terms and conditions, including the filing of security, as are necessary to prevent harm to other parties by the stay.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-455, filed 3/11/05, effective 3/11/05.]

WAC 199-08-460 Discovery. The parties may not conduct pretrial discovery except with the prior permission of the board, which may be sought by motion, subject to any applicable rules adopted by the board and RCW 34.05.446(3), at any time after service of the petition. The party requesting discovery must make a prima facie showing of need. The board shall strictly limit discovery to what is necessary for equitable and timely review of the issues.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-460, filed 3/11/05, effective 3/11/05.]

WAC 199-08-465 Motions. (1) An application to the board for an order shall be by motion which, unless made during a hearing, shall be in writing, state with particularity the grounds therefor and set forth the relief sought. The motion and other relevant materials shall be filed with the board and served on all parties.

(2) For motions for continuance or for schedule changes, or other motions that are likely to be uncontested, the moving party shall affirmatively seek the stipulation of all parties and present a stipulated order wherever possible.

(3) If the motion is contested, any party may request that the board conduct a hearing for the purpose of receiving oral argument on the motion. The board may independently set a motion hearing date. The presiding officer will decide whether or not a motion hearing will be held, and will notify the parties accordingly. If the motion pertains to an issue that must be raised for resolution at the initial hearing pursuant to WAC 199-08-435, oral argument, if granted, will take place at the initial hearing. At a motion hearing, the board will consider the arguments of the parties but will not take evidence. The board will decide a motion exclusively on the parties' written submissions unless the presiding officer orders a motion hearing.

(4) The letter that sets the dates for the initial hearing pursuant to WAC 199-08-450 shall also establish the schedule for filing and briefing motions that have been raised for resolution at the initial hearing.

(5) For motions not subject to subsection (4) of this section, the following deadlines apply:

[2006 WAC Supp—page 446]

(a) All responses to any dispositive motion shall be filed and served fourteen days from the date the motion is received. The moving party shall then have ten days from receipt of the response to file and serve a reply. The presiding officer may establish a different schedule for responses and replies by order.

(b) In cases where the moving party requests a motion hearing, all dispositive motions shall be filed and served not later than two months before the hearing date, unless the presiding officer by order allows otherwise.

(c) All dispositive motions shall be filed and served in accordance with the conference order issued by the presiding officer.

(6) In exigent or exceptional circumstances, a party may at any time request the board to modify the above schedules established in subsections (4) and (5) of this section by requesting a case conference with the presiding officer.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-465, filed 3/11/05, effective 3/11/05.]

WAC 199-08-470 Settlement and mediation agreements. (1) Where the parties settle an appeal before hearing, the parties shall prepare a written order of dismissal to which the settlement agreement is attached, and submit that order to the board. If the agreement is in accordance with the law, the board shall enter the order and dispose of the case.

(2) This section also pertains to settlement agreements reached after mediation.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-470, filed 3/11/05, effective 3/11/05.]

WAC 199-08-475 Use of telephone conferences, motion hearings and hearings. Upon the motion of any party or independently, the presiding officer may decide to conduct any conference, motion hearing or hearing by telephone conference call to promote the fair, speedy and economical processing of a matter.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-475, filed 3/11/05, effective 3/11/05.]

WAC 199-08-480 Postponements and continuances of hearings. (1) Postponement or continuance of a hearing is within the discretion of the presiding officer, whether contested or uncontested by the parties. The board may postpone or continue a hearing on its own motion.

(2) The postponement or continuance of a hearing shall be sought by written motion and according to the procedure set forth in WAC 199-08-475.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-480, filed 3/11/05, effective 3/11/05.]

WAC 199-08-485 Dismissal, default or withdrawal of appeal. (1) If a party fails to attend or participate in a hearing or other stage of an adjudicative proceeding, the presiding officer may serve upon all parties a default or other dispositive order which shall include a statement of the grounds for the order. Within seven days after service of a default or dismissal order for failure to attend or participate, the party against whom it was entered may file a written motion

requesting that the order be vacated and stating the grounds relied upon.

(2) A petitioner may request to withdraw a petition for review. Requests before the petitioner rests its case-in-chief during the hearing are mandatory and afterwards are permissive.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-485, filed 3/11/05, effective 3/11/05.]

WAC 199-08-490 Hearing briefs. Hearing briefs, if filed, should be submitted to the board at least seven days before the time of hearing or other such time as the board may prescribe. An original and six copies must be filed. In all cases where briefs are filed, a copy shall also be served on the other parties or their attorneys. The board may permit or require the filing of additional briefs.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-490, filed 3/11/05, effective 3/11/05.]

WAC 199-08-495 Procedures for hearings on the merits. (1) **Presiding officer.** All hearings on the merits shall be conducted by a presiding officer who shall conduct the hearing in an orderly manner and rule on all procedural matters, objections and motions.

(2) **Testimony under oath.** Oaths shall be administered by the presiding officer or other officer with authority to administer oaths. All testimony to be considered by the board shall be sworn or affirmed.

(3) **Recording.**

(a) An official recording of all hearings shall be made by manual, electronic, or other type of recording device.

(b) Unofficial use of photographic and recording equipment is permitted at hearings; however, the presiding officer shall be consulted first and may impose conditions on their use as necessary to prevent disruption of the hearing.

(4) **Order of presentation of evidence and arguments.**

(a) The presiding officer shall determine the proper order of presentation of evidence. As a general rule, the petitioning party shall initially introduce its evidence.

(b) The opposing party shall introduce its evidence after the petitioner has rested. Rebuttal and surrebuttal evidence will be received only at the discretion of the presiding officer.

(c) Witnesses may be called out of turn in contravention of this rule by agreement of all parties.

(5) **Opening statements.** Unless the presiding officer rules otherwise, parties shall present an oral opening statement setting out briefly a statement of the basic facts, disputes and issues of the case.

(6) **Written statement of qualifications of expert witnesses.** Any party who plans to introduce the testimony of any expert witness at the hearing shall submit as an exhibit to the board and all parties at the hearing a written statement of the qualifications, experience, and expertise of each such expert witness.

(7) **Former employee as an expert witness.** No former employee of a participating permit agency, its legal staff or legal representative, or the board or the attorney general shall at any time after leaving the employment with a participating permit agency appear, except when permitted by applicable state conflict of interest law, as an expert witness on behalf of other parties in a formal proceeding in which an active part in

the investigation as a representative of the department or board was taken.

(8) **Objections and motions to strike.** Objections to the admission or exclusion of evidence shall be in short form, stating the legal grounds of objection relied upon, and the transcript shall not include extended argument or debate.

(9) **Rulings.** The presiding officer, on objection or independently, shall exclude all irrelevant or unduly repetitious evidence and all rulings upon objections to the admissibility of evidence shall be made in accordance with WAC 199-08-515 through 199-08-535.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-495, filed 3/11/05, effective 3/11/05.]

WAC 199-08-500 Scope and standard of review. (1) Hearings upon petitions for review shall be quasi-judicial in nature. The scope and standard of review shall be as follows:

(2) For all permit decisions being reviewed that were made by quasi-judicial bodies or permit agency officers who made factual determinations in support of the decisions, after the conduct of proceedings in which the parties had an opportunity consistent with due process to make records on the factual issues, board review of factual issues and the conclusions drawn from the factual issues shall be confined to the records created by the quasi-judicial bodies or permit agency officers, except that:

(3) For decisions described in subsection (2) of this section, the records may be supplemented by additional evidence only if the additional evidence relates to:

(a) Grounds for disqualification of a member of the body or of the officer that made the permit decision, when such grounds were unknown by the petitioner at the time the record was created;

(b) Matters that were improperly excluded from the record after being offered by a party to a permit decision proceeding; or

(c) Matters that were outside the jurisdiction of the body or officer that made the permit decision.

(4) For permit decisions other than those described in subsection (2) of this section, the board review of the permit decision shall be de novo on issues presented as error in the petition.

(5) The board may require or permit corrections of ministerial errors or inadvertent omissions in the preparation of the record.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-500, filed 3/11/05, effective 3/11/05.]

WAC 199-08-505 Provision of interpreters and of reasonable accommodations to individuals with special needs. (1) Whenever any person involved in an adjudicative proceeding before the board is eligible for an interpreter, as that eligibility is defined in WAC 10-08-150, or qualifies for reasonable accommodations as an individual with disabilities, that person shall request an interpreter or other reasonable accommodations from the presiding officer not later than three weeks before the date of the hearing, conference or other situation for which the interpreter or assistance is needed. The board shall comply with WAC 10-08-150 and 10-08-160(2) regarding the provision of interpreters.

(2) Information about proceedings before the board is available in alternate format upon request.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-505, filed 3/11/05, effective 3/11/05.]

WAC 199-08-510 Rules of evidence—Admissibility criteria. (1) Evidence, including hearsay evidence, is admissible if in the judgment of the presiding officer it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. All relevant evidence is admissible which, in the opinion of the presiding officer, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. In passing upon the admissibility of evidence, the presiding officer shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings in matters not involving trial by jury in the superior courts of the state of Washington.

(2) The presiding officer shall exclude evidence that is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-510, filed 3/11/05, effective 3/11/05.]

WAC 199-08-515 Rules of evidence—Official notice—Matters of law. The board and its hearing officers, upon request made before or during a hearing, will officially notice:

(1) **Federal law.** The Constitution; congressional acts, resolutions, records, journals and committee reports; decisions of federal courts and administrative agencies; executive orders and proclamations; and all rules, orders and notices published in the Federal Register.

(2) **State law.** The Constitution of the state of Washington, acts of the legislature, resolutions, records, journals and committee reports; decisions of Washington state courts and administrative agencies; executive orders and proclamations by the governor; and all rules, orders and notices filed with the code reviser.

(3) **Governmental organization.** Organization, territorial limitations, officers, departments, and general administration of the government of the state of Washington, the United States, the several states and foreign nations.

(4) **Agency organization.** Participating permit agency, commission or board organization, administration, officers, personnel, official publications, and practitioners before its bar.

(5) Local government rules, ordinances and plans.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-515, filed 3/11/05, effective 3/11/05.]

WAC 199-08-520 Rules of evidence—Official notice—Material facts. (1) In the absence of controverting evidence, the board and its hearing officers, upon request made before or during a hearing, or in a proposed decision, may officially notice:

(a) **Board proceedings.** The pendency of, the issues and position of the parties therein, and the disposition of any proceeding then pending before or theretofore concluded by the board;

(b) **Business customs.** General customs and practices followed in the transaction of business;

(c) **Notorious facts.** Facts so generally and widely known to all well informed persons as not to be subject to reasonable dispute, or specific facts which are capable of immediate and accurate demonstration by resort to accessible sources of generally accepted authority, including, but not exclusively, facts stated in any publication authorized or permitted by law to be made by any federal or state officer, department, or agency;

(d) **Technical knowledge.** Matters within the technical knowledge of the board as a body of experts, within the scope or pertaining to the subject matter of its statutory duties, responsibilities or jurisdiction.

(2) **Request or suggestion.** Any party may request, or the presiding officer may suggest, that official notice be taken of a material fact, which shall be clearly and precisely stated, orally on the record, at any prehearing conference or oral hearing or argument, or may make such request or suggestion by written notice, any pleading, motion, memorandum, or brief served upon all parties, at any time prior to a final decision.

(3) **Statement.** Where an initial or final decision of the board rests in whole or in part upon official notice of a material fact, such fact shall be clearly and precisely stated in such decision. In determining whether to take official notice of material facts, the hearing officer may consult any source of pertinent information, whether or not furnished as it may be, by any party and whether or not admissible under the rules of evidence.

(4) **Controversion.** Any party may controvert a request or a suggestion that official notice of a material fact be taken at the time the same is made if it be made orally, or by a pleading, reply or brief in response to the pleading or brief or notice in which the same is made or suggested. If any decision is stated to rest in whole or in part upon official notice of a material fact that the parties have not had a prior opportunity to controvert, any party may controvert such fact by appropriate exceptions if such notice be taken in a petition for reconsideration if notice of such fact be taken in a final report. Such controversion shall concisely and clearly set forth the sources, authority and other data relied upon to show the existence or nonexistence of the material fact assumed or denied in the decision.

(5) **Evaluation of evidence.** Nothing herein shall be construed to preclude the board or its authorized agents from utilizing their experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to them.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-520, filed 3/11/05, effective 3/11/05.]

WAC 199-08-525 Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections. When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The officer conducting the hearing may, either with or without objection, exclude inadmissible evidence or order cumulative evidence discontinued. Parties objecting to the introduction of evidence shall state the precise grounds of such objection at the time such evidence is offered.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-525, filed 3/11/05, effective 3/11/05.]

WAC 199-08-540 Contents of the record. The record before the board in any adjudicative proceeding shall consist of the decision or order appealed from, the petition for review therefrom, responsive pleadings, if any, and notices of appearances, and any other written applications, motions, stipulations or requests duly filed by any party and written reports or orders of the presiding officer. Such record shall also include all depositions, if they are admitted at the hearing, the transcript of testimony as provided in WAC 199-08-545, and other proceedings at the hearing, together with all exhibits admitted.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-540, filed 3/11/05, effective 3/11/05.]

WAC 199-08-545 Preparation of transcripts. (1) The board, in its discretion, may at any time cause a transcript to be printed, but will not normally do so.

(2) When the board does not cause a transcript to be printed, it shall be the obligation of the party wishing a transcript, or portions of it, to order the same from the board reporter and assume the printing costs.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-545, filed 3/11/05, effective 3/11/05.]

WAC 199-08-550 Preparation of findings, conclusions and orders. Upon request of the board or presiding officer proposed findings, conclusions and orders shall be prepared by counsel and the same shall be based upon the board's oral or memorandum opinion. The board or presiding officer may adopt, in whole or in part, the proposed findings, conclusions and orders or the board may prepare its own findings, conclusions and orders.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-550, filed 3/11/05, effective 3/11/05.]

WAC 199-08-555 Final decisions and orders. (1) Upon completion of the record and submission of the issues for decision and order, a written final decision and order concurred in by a majority of the board may be adopted which shall contain findings and conclusions as to each contested issue of fact and law: Provided, That in the event that the board considers the record and that four of the members cannot agree on a decision, the substantive decision under appeal will control. The board will formally adopt its final decision and order.

(2) Copies of the final decision and order shall be mailed by the board to each party to the petition for review and to the attorney or representative of record, if any.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-555, filed 3/11/05, effective 3/11/05.]

WAC 199-08-565 Petitions for reconsideration. (1)(a) After issuance of a final decision, any party may file a petition for reconsideration with the board. Such petition must be filed within ten days of mailing of the final decision. The board may require an answer to the petition. Copies of the petition for reconsideration, and an answer, if required, shall be served on the other parties of record.

(b) The filing of a petition for reconsideration does not stay the effectiveness of the final decision of the board.

(c) In response to a petition for reconsideration, the board may deny it, or may reverse or modify its decision or may reopen the hearing. The board is deemed to have denied the petition if, within twenty days from the date the petition is filed, the board does not act on the petition or specify a date by which it will act on the petition.

(2) The time for filing a petition for judicial review does not commence until disposition of any timely petition for reconsideration. However, the filing of a petition for reconsideration is not a prerequisite for seeking judicial review.

(3) Copies of the final decision and order and of the board's disposition of any petition for reconsideration shall be mailed by the board to each party to the appeal and to the attorney or representative of record.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-565, filed 3/11/05, effective 3/11/05.]

WAC 199-08-570 Time for filing petitions for review to superior court and court of appeals. (1) Superior court review. In order to obtain judicial review of a final decision of the environmental and land use hearings board, a party to the board case as consolidated shall timely file a petition for judicial review in the superior court for Thurston County and timely serve the board and all parties to the proceedings before the board by personal service or by mail. Such petition is timely filed and served only if it is filed and served on all parties within thirty days after the filing of the final decision and order of the board. Service by mail shall be deemed effective on the date of deposit with the United States Postal Service.

(2) Direct review. Any party may apply for direct review by the court of appeals. An application for direct review must be filed with the superior court within ten days after the filing of the petition for judicial review. In considering an application for direct review under this chapter, it shall be presumed that:

(a) The qualifying project presents fundamental and urgent issues affecting the public interest which require a prompt determination; and

(b) Delay in obtaining a final and prompt determination of such issues would be detrimental to a party and the public interest.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-570, filed 3/11/05, effective 3/11/05.]

WAC 199-08-580 Certification of record. Within thirty days of receipt of a copy of the petition for judicial review to the superior court or notice of acceptance of the certificate of appealability by the court of appeals, the board shall certify and transmit to the reviewing court the record made before the board. Additional time for certification and transmission of the record may be allowed by the reviewing court. Normally the record will not include a transcript of the testimony. Unless the board has caused a transcript to be printed, arrangements for and costs of the written transcript shall be the obligation of the party seeking judicial review.

[Statutory Authority: Chapter 43.21L RCW and RCW 34.05.360. 05-07-045, § 199-08-580, filed 3/11/05, effective 3/11/05.]

Title 204 WAC

STATE PATROL

(COMMISSION ON EQUIPMENT)

Chapters

204-41	Seat belt exemptions.
204-50	Ignition interlock breath alcohol devices.
204-90	Minimum requirements for construction and equipment of special motor vehicles.

Chapter 204-41 WAC

SEAT BELT EXEMPTIONS

WAC

204-41-080	Commercially recognized delivery vehicles.
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WAC 204-41-080 Commercially recognized delivery vehicles. Operators of commercially recognized delivery vehicles making frequent stops when traveling wholly within the limits of a town of less than ten thousand population, traveling less than one mile between stops on roads with a posted speed limit not greater than thirty-five miles per hour, while actually on a designated delivery route are not required to wear a seat belt system. Seat belt use is required when traveling to and from the designated route.

[Statutory Authority: RCW 46.61.688(2). 05-16-093, § 204-41-080, filed 8/2/05, effective 9/2/05.]

Chapter 204-50 WAC

IGNITION INTERLOCK BREATH ALCOHOL DEVICES

WAC

204-50-030	Definitions.
204-50-040	Testing certification, revocation or surrender of certification and recertification.
204-50-050	Modifications to a certified device.
204-50-070	Variable calibration.
204-50-080	Device maintenance and reports.
204-50-090	Device security.
204-50-110	Mandatory operational features.
204-50-120	Other provisions.
204-50-130	Removal procedures.

WAC 204-50-030 Definitions. The following definitions shall apply throughout this chapter:

Alcohol - The generic class of organic compounds known as alcohols and, specifically the chemical compound ethyl alcohol. For the purpose of ignition interlock devices, there is no requirement expressed or implied that the device be specifically for ethyl alcohol.

Authorized service provider (ASP) - The person or company meeting all qualifications outlined throughout this chapter and approved and trained by the manufacturer to service, install, monitor, calibrate, and provide information on manufacturer's devices currently certified for use in Washington state.

Bogus sample - Any air sample that is altered, diluted, stored, or filtered human breath, or which is obtained from an air compressor, hot air dryer, balloon, manual air pump, or other mechanical device, and is provided by an individual attempting to start or continue to operate a vehicle equipped with a device.

Ignition interlock device (IID) - An electronic device that is installed in a vehicle which requires the taking of a BAC test prior to the starting of the vehicle and at periodic intervals after the engine has been started. If the unit detects a BAC test result below the alcohol setpoint, the unit will allow the vehicle's ignition switch to start the engine. If the unit detects a BAC test result above the alcohol setpoint, the vehicle will be prohibited from starting.

Breath or blood alcohol concentration (BAC) - Is the amount of alcohol in a person's blood or breath determined by chemical analysis, which shall be measured by grams of alcohol per:

- (a) 100 milliliters of blood; or
- (b) 210 liters of breath.

Circumvention - Means the attempted or successful bypass of the proper functioning of an ignition interlock device including, but not limited to, the operation of a vehicle without a properly functioning device, the push start of a vehicle with the device, disconnection or alteration of the device, the introduction of a bogus sample other than a deep-lung sample from the driver of the vehicle, introduction of an intentionally contaminated or altered breath sample, continued operation of the interlock vehicle after the device detects excess breath alcohol.

Court (or originating court) - The particular Washington state court, if any, that has required the use of an ignition interlock device by a particular individual or has responsibility for the preconviction or postconviction supervision of an individual required to use or using the device.

Certification - The testing and approval process required by RCW 46.04.215.

Chief - The chief of the Washington state patrol.

Device - An ignition interlock breath alcohol device (IID).

DOL - The department of licensing of the state of Washington.

ESR - The equipment and standards review unit of the Washington state patrol.

Fail level - The BAC of .025 or a level set by the originating court, if lower, at which the device will prevent the operator from starting the vehicle, and/or once the vehicle is started, the level at which the operator must record a test below, or must shut off the vehicle, to avoid registering a violation reset.

Lessee - A person who has entered into an agreement with a manufacturer or authorized service provider to lease a device.

Manufacturer - The person, company, or corporation who produces the device, and certifies to ESR that a service provider is qualified to service, install, monitor, calibrate, and provide information on devices.

OAC - Office of the administrator of the court.

Restricted operator - A person whose driving privileges are restricted to operating only motor vehicles equipped with an approved, functioning IID.